Missouri River
Master Water Control Manual

Review and Update

Final

Environmental Impact Statement

Volume IX: Appendix D, RDEIS Comments and Responses, Part 4

U.S. Army Corps
of Engineers
Northwestern Division

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Appendix D, RDEIS Comments and Responses, Part 4

1. INTRODUCTION TO COMMENTS AND RESPONSES APPENDIX

This Revised Draft Environmental Impact Statement (RDEIS) Comments and Response Document, Appendix D to the Missouri River Master Water Control Manual Review and Update Final Environmental Impact Statement (FEIS), is organized into four parts contained in the final four volumes of the FEIS (Volumes VI, VII, VII, and IX). Part 1 (Volume VI) contains an overview of the RDEIS public comment process, a summary of the pubic comments received, and responses to all public comments. Part 2 (Volume VII) contains copies of RDEIS comment documents (letters, postcards, petitions, e-mails, faxes, etc.) from Federal agencies, Tribal groups, State agencies, local agencies, non-governmental organizations, and businesses. Part 3 (Volume VIII) contains copies of RDEIS comment documents from private citizens. Part 4 (Volume IX) contains copies of the RDEIS public hearing transcripts.

Users of this appendix should be able to find the comment document or transcript and associated responses they are interested in by first checking for the correct volume that contains the comment document category they are interested in (Federal agencies, Tribal groups, State agencies, local agencies, non-governmental organizations, businesses, private citizens, and transcripts). Then, a summary table appears for each section (group) of comment documents within a volume, followed by the actual comment documents for that group. Each summary table lists the sender (or transcript) and notes the numbers of the responses to identified comments that are contained in that comment document (or transcript). All responses are contained in Section 4.0 of Appendix D, Part 1 (Volume VI).

2. OVERVIEW OF THE PUBLIC COMMENT PROCESS

A 6-month public comment period followed publication of the RDEIS in August 2001. The Corps hosted workshops and hearings throughout the Missouri River basin, including Tribal reservations, and some Mississippi River locations. In addition to public comments recorded in transcripts during these public hearings, nearly 54,000 public comment documents were received via mail, fax, e-mail, and hand-delivery. The Corps evaluated each comment document received and reviewed comments recorded in hearing transcripts so that issues of concern could be identified, grouped, and considered by technical experts. Issues raised through the comment/response process were used in the development of the FEIS. Responses to public comments identified in the comment documents and transcripts are provided in Section 4.0 of Part 1 of Appendix D (Volume VI).

3. SUMMARY OF PUBLIC COMMENTS RECEIVED

In addition to the oral comments provided at the public hearings, the nearly 54,000 comment documents received came from the following groups of interested parties:

- Federal Agencies
- Tribal Groups
- State Agencies
- Local Agencies
- Non-Governmental Organizations
- Businesses
- Private Citizens.

Table D4-1 shows the volume and section numbers where each category of comment document can be found

Table D4-1. Location of RDEIS comment documents.

Category	Volume Number	Section Number
Federal Agencies	VII (Appendix D, Part 2)	4
Tribal Groups	VII (Appendix D, Part 2)	5
State Agencies	VII (Appendix D, Part 2)	6
Local Agencies	VII (Appendix D, Part 2)	7
Non-Governmental Organizations	VII (Appendix D, Part 2)	8
Businesses	VII (Appendix D, Part 2)	9
Private Citizens—Form Comment Documents	VIII (Appendix D, Part 3)	4
Private Citizens—George Washington University Student Papers	VIII (Appendix D, Part 3)	5
Private Citizens—Unique Comment Documents on Official Comment Form	VIII (Appendix D, Part 3)	6
Private Citizens—Unique Comment Documents on Comment Post Card	VIII (Appendix D, Part 3)	7
Private Citizens—Unique Comment Documents	VIII (Appendix D, Part 3)	8
Public Hearing Transcripts	IX (Appendix D, Part 4)	4-23

This volume (Appendix D, Part 4) contains coded copies of transcripts in chronological order from the 20 public hearings held throughout the region (see Table D4-2 and Sections 4 through 23). Responses to the comments identified in these transcripts can be found in Appendix D, Part 1, Section 4.

Table D4-2. Summary list of transcripts from RDEIS public hearings, including response codes.

Meeting Location	Meeting Date	Section/Page Number	Response Numbers
Helena, Montana	October 9, 2001	Section 4, Page D4-9	EnSp-4,12,28,29,53,58; WRH-6; FC-8; Nav-12; WS-19; Other-6,7,26,85,198,204,207
Poplar, Montana	October 10, 2001	Section 5, Page D4-31	WS-21; Other-10,82,83,201,202,204
Sioux City, Iowa	October 11, 2001	Section 6, Page D4-41	Tribal;18,23,44; Rec-4,6,10,34,35; EnSp-2,3,5,8,9,17,18,20,22,24,25,28,29,34,41,53,58; WRH-6,7,13; Fish-3,16; IntD-8,10; GW-7,8,13,14; WQ-2; FC-4,6,8,9,25,26,27,28; Miss-4; ErSd-15,18,19; Hpower-1,16,18,22; Nav-6,7,8,12,18,23,30,31,32,45,46,51,56,59,74,78,79; MoPower-1,3; WS-11,16,79; Legal-1,2,3,4; Other-A,2,3,6,7,8,10,22,23,24,26,48,70,119,127,136,142,178,182,188,198,204,220,222
Bismarck, North Dakota	October 23, 2001	Section 7, Page D4-105	Tribal-9,12,15,17,18; Rec-10,12,21,22,26,27; EnSp-8,17,28; Fish-13,14,15; WQ-14; ErSd-13; Hpower-11,12,28; Nav-11,30,35,36,42,43,45,46,56; MoPower-3; WS-11; Legal-85,86; Other-A,7,23,45,61,172,198,204,205,207,208,209,210,211,212
New Town, North Dakota	October 24, 2001	Section 8, Page D4-141	Tribal-2,15,17,18,23,24,26,38,39,40,41,42,43; CR-6,15,17,24,25,27; Rec-8,10,27; EnSp-8; Fish-8; WQ-14; FC-23; ErSd-20; Hpower-9,12,26; Nav-9,35,51; WS-11,16; WAPA-14; Legal-88,89,90,91,92,93,94,95,96,97; Other-7,61,148,182,198,204,269,303,305,306,308,309,310,311,312,314
Pierre, South Dakota	October 29, 2001	Section 9, Page D4-191	Rec-10,11,12,14,16,17,19; EnSp-2,5,7,8,17,28; WRH-6,7; Fish-8,14; WQ-27; FC-8,24; Hpower-12; Nav-6,8,10,11,18,35,42; WS-11,22; Legal-87; Other-A,7,10,36,77,79,172,203,205,206,294
Lower Brule, South Dakota	October 30, 2001	Section 10, Page D4-217	Tribal-31,32; Rec-22; EnSp-2,5,8,35; ErSd-10; Hpower-13,18; Nav-11,42; Legal-98; Other-A,7,10,77,198,204,213,214
St. Joseph, Missouri	November 1, 2001	Section 11, Page D4-233	Rec-2,10,24,27,35,37; EnSp-1,2,3,4,5,7,8,9,12,17,20,25,26,27,28,29,53,58,60; WRH-6,8; Fish-10,14,21; IntD-8; GW-7,14; FC-2,4,6,8,13,17,30; Miss-4,27,29,31; Hpower-2,17,18; Nav-6,7,8,9,12,18,21,22,23,30,34,42,43,45,51,56,59,72,79; MoPower-1,3; WS-11; Other-A,3,6,7,9,10,13,14,15,22,26,48,61,70,79,129,172,199,200
Kansas City, Missouri	November 6, 2001	Section 12, Page D4-315	Rec-8,10,27,29,35,38,42; EnSp-1,2,3,5,7,12,17,25,29; WRH-6; Fish-3; IntD-8; GW-7; WQ-1,2,19,25,28,30,31; FC-6,8,10,13,19,20,21,22; Miss-4,14,32; Hpower-16,39; Nav-3,5,6,7,8,10,11,12,23,27,30,39,56,59,66;MoPower-1,3,5,7; WS-11; Legal-112; Other-A,2,3,6,7,9,10,13,14,22,23,25,26,36,48,61,70,77,79,119,124,142,172,178,198,204,205,215,216,217,218
Jefferson City, Missouri	November 7, 2001	Section 13, Page D4-389	CR-4,5; Rec-10,16,21; EnSp-1,3,5,7,17,18,20,22,26,28,29,46,53; WRH-6; Fish-3; IntD-8,12; GW-7,16,17; WQ-2,12; FC-4,6,8,12,13,20,39; Miss-4,5,19,29; ErSd-35; Nav-5,6,7,8,9,12,23,24,35,40,49,51,56,62,65; MoPower-1,3,6; WS-11,20; Hydro-31,41; Legal-111; Other-A,2,3,4,6,7,9,10,13,22,23,26,48,70,124,127,142,148,165,172,178,182,204,210,218,260,261,264
Nebraska City, Nebraska	November 8, 2001	Section 14, Page D4-431	Rec-4,10,31,33,35; EnSp-1,3,7,8,17,26,28,37,38,46,48,59; WRH-6,11; Fish-16; IntD-8; GW-7,14; FC-4,8,17,39,40; Miss-4,42; Hpower-11,12,17,18; Nav-6,7,8,11,12,23,30,31,32,34,45,49,51,75,76; MoPower-1,3,7; Legal-105,106; Other-A,3,6,7,10,20,22,23,36,48,70,119,124,178,182,186,187,198,218,250,256,257,258
St. Louis, Missouri	November 13, 2001	Section 15, Page D4-509	CR-4,7; Rec-6,9,10,16,19,21,27; EnSp-1,2,3,5,7,8,9,12,20,26,28,29,37,46,47,48,53,59WRH-6; Fish-10,14; IntD-8,11; GW-7; WQ-1,2,28; FC-2,6,8,10,13,20,31,32,33,34; Miss-4,21,24,25,27,29,30,37; ErSd-18,29,30; Hpower-1,2,3,18,21,22; Nav-3,4,6,7,8,9,11,12,18,23,30,34,35,39,42,43,45,46,49,56,59,60,71,72,79,80; MoPower-1,2,3,18; WS-11; Hydro-42; Legal-5,6; Other-2,3,6,7,9,10,12,13,14,22,23,26,48,70,79,112,119,165,172,178,182,186,193,198,204,218,259,264,274,275,276
Memphis, Tennessee	November 14, 2001	Section 16, Page D4-655	EnSp-26; WRH-6; FC-4,8,12,20; Miss-4,5,19,22,29,30,38,39; Hpower-22; Nav-5,6,8,11,12,23,30,49,51,65; Legal-107,108,109; Other-A,6,7,9,10,24,48,70,85,127,148,158,159,172,198,204,210,246,248
New Orleans, Louisiana	November 15, 2001	Section 17, Page D4-701	Tribal-8,13; Rec-10; EnSp-1,3,28; Fish-14; IntD-11; FC-8; Miss-4,5,19,20,21,22,24,25,30,31,39,40,41,42; Nav-12,23,49; Legal-102,103; Other-A,9,10,14,42,127,164,172,322,323
Cape Girardeau, Missouri	January 21, 2002	Section 18, Page D4-745	Rec-3,19,27; EnSp-3,4,5,8,17,26,28,42,43,46,47,53; WRH-6,48; IntD-8; GW-7; WQ-1,2; FC-2,8,13,20; Miss-1,4,5,19,20,21,24,25,29,30,34,35,36; ErSd-26; Hpower-2,18; Nav-5,6,7,8,12,23,30,49,51,58,59,60; MoPower-1,3; WS-11; Hydro-15,28,37; Other-2,3,6,7,8,9,10,14,46,70,79,164,165,178,182,204,271
Quincy, Illinois	January 23, 2002	Section 19, Page D4-789	Rec-27; EnSp-3,17,18,37,48; WRH-6,22; Fish-14; IntD-8; GW-7; FC-6,8; Miss-4,19,21,24,29,31,39,43; Hpower-12,18; Nav-3,6,7,8,11,12,17,18,23,32,51,64,67,77; MoPower 1,3; Other-A,3,6,7,9,10,13,14,22,23,46,48,56,86,127,164,187,193,262,263
Fort Yates, South Dakota	January 30, 2002	Section 20, Page D4-857	Tribal-8,13,23,25,26,35,36; CR-37; ErSd-39; Hpower-18; Legal-100,101; Other-7,198
Eagle Butte, South Dakota	February 12, 2002	Section 21, Page D4-911	Tribal-9,33,34; CR-6,9,11,12,15,17,23,24,26; EnSp-22; WQ-22,29; FC-41; ErSd-39; Hpower-2,18; Other-119,148,194,229,270,300,301
Poplar, Montana	February 13, 2002	Section 22, Page D4-937	Tribal-10,12,13,23,35,44,45,46; CR-17,26,31; EnSp-28; WQ-15; ErSd-5,6,40,41; Hpower-2,11,12,18; Hydro-12; Other-7,10,82,83,265,266,267
Council Bluffs, Iowa	February 19, 2002	Section 23, Page D4-979	Rec-4,6,10,15,23,27,29,33,34,35,40; EnSp-2,3,4,5,7,17,20,22,26,27,28,29,37,38,42,46,50,53,62; WRH-6,8; Fish-6,13,14,18,19,21; IntD-8,14,15; GW-7,9,11,14,15,18,19; WQ-12,30,33; FC-6,8,10,47,48; Miss-4,19,26,30,31; ErSd-18; Hpower-2,11,12,17,18; Nav-3,6,7,8,11,12,18,23,30,31,34,35,45,49,51,60,61; MoPower-1,2,3; WS-11; Hydro-41,44; WAPA-3; Other-A,3,6,7,9,10,14,22,23,25,41,46,48,56,61,70,79,83,86,119,124,164,165,172,178,187,189,198,204,218,272,273,276,302,303

HELENA, MONTANA TRANSCRIPT— OCTOBER 9, 2001

PUBLIC HEARING ON THE
MISSOURI RIVER REVISED DRAFT
ENVIRONMENTAL STATEMENT,
MASTER WATER CONTROL MANUAL

LIEUTENANT COLONEL UBBELOHDE:
Good evening. Welcome to this evening's comment session on the revised draft environmental impact statement for the Missouri River Master Manual. My name is Lieutenant Colonel Kurt Ubbelohde. I'm the Commander of the Omaha Engineer District, Corps of Engineers. With me tonight are members of the team that prepared the revised draft EIS, Larry Cieslik, Roy McAllister, Rick Moore, John LaRandeau, Patti Lee, Rose Hargrave, Paul Johnston, Jody Farhat and Betty Newhouse.

This is the first of 14 sessions from Helena to New Orleans. This afternoon we conducted an open house workshop. I hope that some of you were able to stop by and study the displays, pick up some handouts and talk with the staff if you had questions. If you weren't able to, you are encouraged to take a few minutes this evening and visit the displays that are set up in the back of the room.

Our agenda tonight will start with a short video. There is a welcome from Colonel David Fastabend, the Northwestern Division Commander, followed by a description of the projects, the features of the RDEIS and the major impacts. We want everyone to have a common understanding of the EIS. Copies of the summary and handouts as well as the entire document are available at libraries and project offices throughout the basin. Also, you can get a copy by writing to us or off our website, and the addresses are available in the back.

Following the video I will give a little fuller description of the comment process tonight and then we'll take your comments and we'll stay as long as necessary so that everyone is able to be heard and, with that, we'll begin.

(Videotape played.)

LIEUTENANT COLONEL UBBELOHDE:
This hearing session will come to order. Good evening, ladies and gentlemen. I am Lieutenant Colonel Kurt Ubbelohde, District Engineer, Omaha Engineer District. I will be the hearing officer for tonight's session. Our purpose this evening is to conduct a public hearing on proposed

changes to the guidelines of the Missouri River mainstem systems operations. Assisting me this evening are Larry Cieslik, Rose Hargrave, Roy McAllister, Paul Johnston, Rick Moore, Patti Lee, Jody Farhat, John LaRandeau and Betty Newhouse. These folks will be available after the hearing if you have any questions.

Before I proceed, do we have any elected officials or their representatives here who wish to be recognized? Please stand and recognize yourself.

MR. CLINCH: I'm Bud Clinch, director of the Department of Natural Resources and Conservation. I appear here tonight on behalf of Governor Judy Martz.

LIEUTENANT COLONEL UBBELOHDE: Thank you very much, sir. This hearing is being recorded by Lisa Lesofski from the firm of Lesofski & Walstad Court Reporting, who will be taking verbatim testimony that will be the basis for the official transcript and record of this hearing. This transcript with all written statements and other data will be made part of the administrative record for action. Persons who are interested in obtaining a copy of the

transcript for this session or any other session can do so. Persons interested in receiving a copy need to indicate this on one of their cards available at the table by the entrance. Also, if you are not on our mailing list and desire to be, please indicate this on the card.

In order to conduct this hearing in an orderly manner it is essential that I have a card from anyone desiring to speak giving your name and who you represent. If you desire to make a statement and have not filled out a card, please raise your hand and we will furnish one to you.

The primary purpose of tonight's session is to help ensure that we have all essential information that we will need to make our decision on establishing the guidelines for the future operations of the mainstem system and that this information is accurate. This is your opportunity to provide us with some of that information. We view this as a very important opportunity for you to have an influence on this decision. Therefore, I'm glad that we're here tonight.

I want you to remember that tonight's forum is to discuss the proposed changes in the

operation of the Missouri River mainstem system that are analyzed in the recently released Revised Draft Environmental Impact Statement. We should concentrate our efforts this evening on issues specific to that decision and should refrain from discussing the Corps of Engineers in general.

It is my intention to give all interested parties an opportunity to express their views on the proposed changes freely, fully and publicly. It is in the spirit of seeking a full disclosure and providing an opportunity for you to be heard regarding the future decision that we have called this hearing. Anyone wishing to speak or make a statement will be given the opportunity to do so.

The Missouri River mainstem system consists of Corps of Engineers constructed and operated projects, so officially that makes us a project proponent. However, it is our intention that the final decision on the future operational guidelines for these projects reflects a plan that considers the views of all interests, focuses on the contemporary and future needs served by the mainstem system and meets the requirement established by Congress.

As hearing officer, my role and responsibility is to conduct this hearing in such a manner as to ensure full disclosure of all relevant facts bearing on the information that we currently have before us. If the information is inaccurate or incomplete, we need to know that and you can help us make this determination.

Ultimately, the final selection of a plan that provides the framework for the future operations of the mainstem system will be based on the benefits that may be expected to accrue from the proposed plan as well as the probable negative impacts, including cumulative impacts. This includes significant social, economic and environmental factors.

Should you desire to submit a written statement and do not have it prepared, you may send it to the U.S. Army Corps of Engineers, Northwestern Division and the address is 12565 West Center Road, Omaha, Nebraska, zip code 68144-3869, Attention: Missouri River Master Manual. You may also fax your comments to 402-697-2504 or e-mail your comments to mastermanual@usace.army.mil. This information is also available on the back table. The official

record for this hearing will be open until 28 February 2001. To be properly considered, your written statement must be postmarked by that date.

Before I begin taking testimony, I would like to say a few words about the order and procedure that will be followed. We will call your name, when we call your name, please come forward to the lectern, state your name and address, specify whether or not you are representing a group, agency or organization or if you're speaking as an individual. You will be given five minutes to complete your testimony. If you're going to read a prepared statement, we would appreciate it if you could provide a copy to the court reporter prior to speaking so that your remarks will not have to be taken down verbatim.

After all statements have been made, time will be allowed for any additional remarks. During the session I may ask questions to clarify points for my own satisfaction. Since the purpose of this public hearing is to gather information which will be used in evaluating the proposed plan or alternatives to it and since open debate between members of the audience will

be counterproductive to this purpose, I must insist that all comments be directed to me, the hearing officer.

With the exception of public officials or their representatives who will speak first, speakers will be given an equal opportunity to comment. Please remember, speakers will be limited to five minutes. We will be using a lighted timer. When the yellow light comes on, it means you have two minutes of time remaining. When the red light comes on, your five minutes are up. No portion of unused time allotted to each speaker may be transferred to another presenter. The purpose of the hearing is to permit members of the public an equal opportunity to concisely present their views, information or evidence. If we allow one speaker to stockpile unused time of others, the result may be that the hearing record will be unfairly tainted and others waiting to speak may be discouraged from doing so.

I will now call the names of those who have submitted cards, beginning with the elected officials. Bud Clinch.

MR. CLINCH: For the record, my

name is Bud Clinch, director of the Montana Department of Natural Resources and Conservation, and tonight I appear before you on behalf of Governor Judy Martz. Colonel Ubbelohde, Larry Cieslik, Rose Hargrave, Roy McAllister and Corps staff, welcome to Montana. Oftentimes many of us in Montana wonder if the Corps really knows about the uppermost portion of the basin other than when it's time to call for releases of Fort Peck. So it's a pleasure to have you here today to hear comments from Montanans about their concern over the manual.

As you may know, the state of Montana has been involved in this debate for well over a decade and I've personally been involved for the last six years trying to help mold the process and provide meaningful comment. As the video before us has shown, there is a wide variety of issues that affect everyone from the lower basin to the upper basin and there is a specific set of circumstances that impact each individual state and each individual stakeholder. Montana is no different. We have our own set of issues, primarily associated with reservoir levels as well as releases in the Montana stretch below the

Fort Peck Reservoir.

Because of the number of issues and the amount of information surrounding those issues and the limited amount of time, I'm going to defer from going into great details on the specifics of our recommendation and just assure you that the state of Montana is in the process right now of compiling its comments between the state agencies that have an issue with the Missouri River management; that would be the Department of Fish, Wildlife and Parks, the Department of Natural Resources and the Department of Environment Quality, and we will compile those in a single written, concise comment and submit those to the Corps prior to the deadline under the Governor's signature.

And with that brief overview, I guess I would thank you for coming here. I hope that you remain open to the issues that concern us in Montana. You'll find those quite different as you move down the basin, and I hope that our distance from Omaha doesn't render you deaf on the issues or the concerns of the people of Montana and I thank you for coming tonight.

LIEUTENANT COLONEL UBBELOHDE:

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Richard Opper.

MR. OPPER: Thank you. I'm Richard Opper, I live in Lewistown, Montana and I'm the Executive Director of the Missouri River Basin Association and, Colonel Ubbelohde, welcome to Montana, as Bud said.

You may think that Helena is a difficult place to get to and kind of remote. Wait until you try to find Poplar. You'll be in for a bit of a surprise. This is a major metropolitan area in comparison. So you'll get to see the real Montana, both urban and rural. It's a very interesting state we have here so welcome.

We've been at this game for a while now, the Missouri River Basin Association. We have been working really since 1995, shortly after the Corps prepared its last preferred alternative back in 1994. Our association, which is a coalition of eight states in the Missouri River basin and the tribes of the Missouri River basin, we've been working to try to come up with some kind of consensus position on how to manage the river system in light of the contemporary needs of the basin and the Corps has been extremely supportive of our efforts and we're grateful to

LESOFSKI & WALSTAD COURT REPORTING
(406) 443-2010

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the Corps. When we've needed technical expertise, Roy McAllister has stayed up late on his laptop trying to get us those numbers. All of your staff are been extremely helpful, and when we've needed resources to try to bring the people throughout the basin together for conferences, the Corps has helped us with resources. So we are very grateful for the assistance provided by the Corps for that.

We negotiated among our states, among our tribes to try to come up with a plan that would be acceptable to the basin's states and tribes and in 1999, November of 1999 we made our recommendation to the Corps of Engineers and our recommendation was not a consensus position, unfortunately. The state of Missouri did not support our position and the tribes did not vote one way or another on our position. But seven of our states, seven of our eight states did support our plan and our plan looked very much like the modified conservation plan. It called for additional water conservation during a drought on the reservoirs, it called for habitat acquisition and enhancement activities throughout the basin, which is extremely important, it called for a

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1 basin-wide monitoring program, which is something
2 we have a very serious need for in this basin,
3 particularly if we're going to be making changes
4 to the flows of the river system or to the
5 management of the river system, we have to
6 understand if those changes actually take us
7 towards our goals or not. It will save us money
8 in the long run. And we also called for the
9 formation of a basin-wide recovery committee that
10 will help us apply this concept of adaptive
11 management and also be a vehicle that will allow
12 people throughout the basin to participate in
13 basin-wide planning activities. That, in
14 essence, was our plan, plus a lot of other
15 details. And the Corps was very supportive of
16 that and, again, we appreciated the Corps's
17 support.
18 Now we're at a point where it's time to make
19 a decision and I don't envy the Corps for having
20 to make a decision but we have a lot more work to
21 do here. We have to work with Congress on things
22 like funding the monitoring program, getting more
23 money for habitat. The only way we can do this
24 is to get past this Master Manual.
25 So we encourage you to go through these

Other 85

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1 hearings. I can telling you what you're going to
2 hear if you want to hear it. The Corps has heard
3 these things, they'll hear them again louder, but
4 it's time to make a decision and we need to move
5 on so that we can begin building a healthier
6 ecosystem in this basin and building a healthy
7 economy in this basin and working together on
8 things that really have to be done.
9 LIEUTENANT COLONEL UBBELOHDE:
10 Michael Wells.
11 MR. WELLS: Good evening, Colonel.
12 My name is Michael Wells, I'm chief of Water
13 Resources from the Missouri Department of Natural
14 Resources from Jefferson City, Missouri. Tonight
15 I'm representing Steve Mahfood, who's the
16 director of our department.
17 First of all, I would like to compliment the
18 Corps and especially their staff on the excellent
19 working relationship that we have with your
20 staff. Any time we've asked for information it's
21 always been provided to us in a very willing and
22 open manner. We also would like to compliment
23 the Corps for having this open and public process
24 where everyone gets the opportunity to express
25 their views on a very important issue to the

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basin as well as the nation.

This evening my comments will be brief from the standpoint that, as mentioned earlier, we will be providing additional comments from our governor later on in quite some detail. As you are well aware, we have not had an opportunity to really look at the data since it was late in being delivered to us. Actually, I guess we've only had it now about two weeks and have just started to really have the opportunity to look at it. That does concern us that these hearings were started with only data having been out for about two weeks. Our Governor Holden has written a letter to Colonel Fastabend requesting an extension on the public comment and actually a delay in some of the hearings.

Other 26

One of the things that was mentioned in your overview that also concerns us a little bit is the six alternatives that was presented in the draft EIS. After having reviewed that briefly we find that there is in actuality only three alternatives that's been presented. We see the current water control manual, the modified conservation plan and we see the Gavins Point alternative as being nothing more than one

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alternative with a range of specified flows. The Missouri DNR continues to oppose significant changes in flows both from a spring rise and a low flow. We feel like a spring rise will have an adverse impact on agriculture in our state. Even though you mentioned that flood control damages are insignificant, we disagree. We also think the low flows will have a very significant impact on navigation in our state.

FC 8

Nav 12

We also would like to point out that of the six alternatives or three, whichever one you like to call it, the current water control plan is the only one which does not have higher reservoirs. We felt that there should have been at least two other alternatives that would have reduced reservoirs but the current water control plan is the only one that does not have high reservoirs imbedded in them.

Other 6, 198

With that I think I'll close right now just to say that this is a very important issue for the state of Missouri, that's why I'm here in Helena, Montana tonight. We will be attending many of the hearings more or less just to hear what's going on in the basin and what's being said, so thank you for the opportunity to speak

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here tonight.

LIEUTENANT COLONEL UBBELOHDE: William Beacom.

MR. BEACOM: Colonel, my name is Bill Beacom. I am a navigator on the inland waterways. A lot of people have told me that I should come to Montana to meet my enemies but I haven't been able to find any.

The one thing that we have done, it seems, in the basin is allow other people to categorize people that live a little further away from us. There are some problems within this basin that require attention, but the mass of figures that's usually presented to the individual is such that comprehension is almost impossible and you first try to find out who's on your side and who isn't and that's even almost impossible. So I think the best approach to it is to decide that anybody that lives in the basin is on your side and then go from there.

Most of us in the basin have the same thing in mind, we have a utilitarian use of the Missouri River. Now the question then starts to remain who is to lose and who is to gain. If the decisions of the basin are reached somewhere

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outside of the basin, then everybody in the basin has to lose. Now you can go through the plan and you can use simple logic and you can see where there is large flaws in the plan.

To start out with about the pallid sturgeon, we are going to change the flows throughout the river to duplicate a flow that already exists below Booneville and, yet, we don't have any pallid sturgeon below Booneville. So even if we're successful in duplicating what we have below Booneville, there is no reason to believe we're going to gain any pallid surgeon. If the natural conditions that already exist are what we're trying to duplicate and they are not successful, then what guarantee do we have that duplicating the same situation will be successful?

EnSp 29

EnSp 4,12

As far as the flows below Gavins Point, they don't make any sense at all because the spring flow that you're talking about will flood the birds that come in April and May and they say, "Well, this is not so bad because the birds will renest." But birds renesting is not guaranteed and will they return next year and is it even necessary when you have the prescribed amount of

EnSp 53

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acreage below Garrison Dams to accept the number of birds that go below Gavins Point but you encourage their landing at Gavins Point and then tell them that when they do do there you're going to flood them out so they have to renest? I think that these two items right here would defy the logic of most people and I think they can be arrived at in common sense without a great deal of scientific theory.

EnSp 28

I find this to be the situation with a lot of the science that's brought in to this. If you examine the science it doesn't make a lot of sense, it doesn't make a lot of sense to cue the sturgeon to go north to spawn when they need gravel beds to spawn, and there are no gravel beds between the mouth of the Platte and the Gavins Point Dam. So if you cue them to go north, what do they do when they get there, they can't spawn. I mean, they've been searching for gravel there for the purpose of making money. Gravel is worth money if you can find it. I've been on the river through that stretch for the last 40 years, I haven't found anybody that can find enough gravel to make money on so how can the sturgeon find enough gravel to spawn on, and

EnSp 58

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we know that they need gravel beds to spawn.

So this science is something that is a quandary but from my standpoint I think that we can do something for the species. I think that we can accommodate the economic interests throughout the basin and I think it's a lesson in futility to allow other people to decide who our enemies are, and if we work together I think that we'll find that we really don't have that many enemies and that we can reach an amiable solution and still satisfy the needs of the endangered species.

Other 7

LIEUTENANT COLONEL UBBELOHDE: Mark Wilson.

MR. WILSON: Good evening. My name is Mark Wilson and I'm here this evening on behalf of the U.S. Fish and Wildlife Service to issue a brief statement on the Revised Draft Environmental Impact Statement for the Missouri River Master Control Manual. I'm also here personally to listen to the comments of the citizens who are here this evening to testify on this important issue.

Other 204

Under the Endangered Species Act Congress has given the Fish and Wildlife Service primary

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1 responsibility for the stewardship of our
2 nation's rarest plants and animals. The Missouri
3 River is home to the endangered pallid sturgeon
4 and least tern and the threatened piping plover.
5 The decline of these species indicates that the
6 river has changed in ways which now prevent it
7 from sustaining some formally abundant
8 populations of native fish and wildlife and
9 suggests that we should consider adjusting our
10 present method of river management and try to
11 restore the Missouri River to a healthier
12 condition.
13 The Fish and Wildlife service has a variety
14 of facilities along and near the length of the
15 Missouri River. These include national wildlife
16 refuges, national fish hatcheries as well as
17 offices of ecological services, fisheries
18 management assistance and law enforcement. The
19 personnel working at these facilities allow the
20 Fish and Wildlife Service to conserve and protect
21 fish and wildlife habitat, raise and release
22 millions of fish, enforce laws designed to
23 promote fish and wildlife conservation and to
24 conduct research on the biological wellbeing of
25 the Missouri River.

1 The Missouri River should provide wildlife
2 habitat and support fishing, boating and other
3 recreational activities. The river can also act
4 as an enticement for tourism as well as provide
5 water to drink, to irrigate with and to support
6 navigation if we moderate and temper these uses
7 and don't allow excessive use to impair the
8 river's ability to provide a wider array of
9 social benefits.
10 Congress has committed the Federal Government
11 to work to present extinctions of rare animals
12 and plants by requiring all federal agencies to
13 use their authorities to conserve threatened and
14 endangered species. One of the Fish and Wildlife
15 Service's primary roles is to assist other
16 federal agencies in designing and planning their
17 programs to help them avoid actions that would
18 contribute to further decline of rare species
19 such as the pallid sturgeon, least tern and
20 piping plover. Over the last 12 years our agency
21 has been working with the U.S. Corps of Engineers
22 to modernize the management of the Missouri River
23 to help stabilize and hopefully to increase and
24 recover populations of these very rare animals.
25 Our recommended approach was described recently

in a document called the "Missouri River Biological Opinion," published in November of 2000.

Our biological opinion outlines the status of the threatened and endangered species that are associated with the Missouri River and describes the effects that the current management scheme has upon them. The biological opinion also provides a reasonable and prudent alternative to the current operation that we believe will allow the Corps of Engineers to manage the river and also be in compliance with the legal stipulations of the Endangered Species Act which, in a nutshell, says that no federal agency can take actions that would jeopardize the continued existence of a threatened or endangered species or destroy or adversely modify habitat of such specifies, which is determined to be critical. With the biological opinion as a foundation, we will continue to work with the Corps to evaluate the six alternatives for a new master manual presented in the Revised Draft Environmental Impact Statement.

Our biological opinion is based on the best available science and includes nearly 500

scientific references. In addition, we sought the advice from six respected scientists, big river specialists, who confirmed that there is a need to address flow management in addition to physically restoring portions of the river channel to a more natural condition. Further, the Missouri River Natural Resources Committee has endorsed the science encompassed within the biological opinion. This is a group comprised of Missouri River management experts from the state fish and wildlife conservation agencies in each of the eight states in the Missouri River basin.

Other management changes identified in the biological opinion include a spring rise out of Fort Peck Dam, an improved hatchery operation to assist declining pallid sturgeon populations, restoration of approximately 20 percent of the lost aquatic habitat in the lower one-third of the river and intrasystem unbalancing of the three largest reservoirs. We are also recommending incorporation of an adaptive management strategy that would include improved study and monitoring of the river.

In closing, the Service endorses the identified goal of the revised Master Manual to

TRANSCRIPT OF PUBLIC HEARING

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manage the river to serve the contemporary needs of the Missouri River basin and nation. These needs include taking steps to ensure that threatened and endangered species are protected while maintaining many of the other socioeconomic benefits provided by the operation of the Missouri River dams. The Service stands behind the science used in the biological opinion and is confident that the operational changes identified in the biological opinion, in addition to the subsequent discussions with the Corps, will ensure that rare species of fish and wildlife continue to be a part of the Missouri River's living wildlife legacy. The Missouri River is a tremendous river with a cherished and celebrated heritage. Human influence has altered the river greatly. Changes are needed to modernize and restore biological health to the river for the benefit of rare species and for people too. Thank you.

LIEUTENANT COLONEL UBBELOHDE: Steven Potts.

MR. POTTS: Good evening. My name is Steven Potts and I am with the U.S. Environmental Protection Agency Region 8 Montana

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Other 207

Office here in Helena. I'm here this evening on behalf of EPA to present a statement regarding EPA's perspective on the Revised Draft Environmental Impact Statement for the Missouri River Master Water Control Manual. I am also here this evening to listen to the comments in person from the public on this important decision.

The EPA has been involved in the master manual review during the past 12 years. One of the EPA's jobs is to conduct independent reviews and provide written comments on all environmental impact statements. The law requires the EPA to make its written comments available to the public. When EPA reviews an environmental impact statement we focus on two main areas, one is the level of environmental effects of the proposed management plan or plans, the other is whether an environmental impact statement includes all of the analyses needed to understand the impacts of each plan under consideration and, if so, whether impacts are adequately analyzed and disclosed. EPA's review also includes a rating using a national rating system that evaluates these two main aspects of the EIS. One, the level of

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1 environmental impact of the plan and, two, the
2 adequacy of the impact analysis and disclosure;
3 that is, were all of the major environmental
4 impacts identified, adequately analyzed and
5 clearly explained in the document?
6 EPA and the Corps met during the past year to
7 discuss EPA's main concerns with the previous
8 master manual NEPA documents. Unfortunately, the
9 pressing Master Manual EIS schedule did not allow
10 enough time for EPA and the Corps to fully come
11 to agreement on how EPA's major concerns were to
12 be addressed in the revised draft EIS. The EPA's
13 review during the comment period for the EIS will
14 be the opportunity for EPA to understand how the
15 Corps has addressed each of our concerns.
16 EPA's major concerns with previous drafts of
17 this Environmental Impact Statement have included
18 the following, one, the need for the Corps to
19 consider a broad range of reasonable alternatives
20 including alternatives that might go beyond their
21 jurisdiction. Two, the analysis of alternative
22 plans should consider all of the activities
23 affecting the Missouri River ecosystem, not
24 simply proposed changes to dam operations.
25 Three, the EIS must identify and analyze water

1 quality impacts of each plan. Four, the Corps
2 should describe how significant environmental
3 impacts of each plan could be mitigated or
4 offset. Five, the EIS needs to identify and
5 analyze impacts on tribes posed by each plan.
6 Six, the EIS should describe all of the
7 environmental costs and benefits associated with
8 each plan. Seven, the document should describe
9 the uncertainty or possible source of error in
10 the analyses and how that uncertainty affects the
11 comparison among alternative plans and how they
12 have selected the preferred plan. Eight, the EIS
13 must evaluate each plan for compliance with all
14 environmental laws, including the Clean Water Act
15 and Endangered Species Act and finally, nine, the
16 EIS needs to be readily understandable to the
17 public. These concerns are discussed in detail
18 in EPA's two previous comment letters and within
19 the next several days these two letters will be
20 available on the EPA Region 8 website for NEPA
21 documents.
22 EPA supports the stated goal of the revised
23 master manual to better manage the river to serve
24 the contemporary needs of the basin and the
25 nation. Those needs include ensuring that the

natural resources of the river are managed sustainably so that it can continue to provide many of the socioeconomic benefits that we have come to depend on. EPA understands that the issues and concerns are complex. That is why EPA has teamed with the Corps of Engineers to ask the National Academy of Sciences to provide an objective study by national experts on the state of scientific information about Missouri River management. The study will also recommend ways to improve scientific knowledge of the Missouri River ecosystem and approaches to adaptive management of the Missouri River and floodplain ecosystem.

Since we don't know all of the answers about how best to protect the river's natural resources, we need to try new management approaches, test their success and modify them to meet the objectives of improving overall health of the river. We believe the science supports proposed changes in river operations to protect water quality, endangered species and the many other natural resources treasured by those who live along the river and in the basin. Thank you.

LIEUTENANT COLONEL UBBELOHDE: Is there anyone else who wishes to testify? In closing, I would like to remind you that the hearing administrative record will be open through 28 February 2002 for anyone wishing to submit written, faxed or electronic comments. Also, if you wish to be on our mailing list to receive a copy of the transcript you need to fill out one of the cards available in the back of the room. If there are no further comments, this hearing session is closed.

Ladies and gentlemen, thank you very much for being here tonight and for providing us with your valuable insights and information which I can assure you will be considered when making our decision on the Master Manual plan to select for the Missouri River mainstem system of operational framework. Thank you.

(The hearing concluded at 8:10 p.m.)

* * * * * * * * * *

C E R T I F I C A T E

STATE OF MONTANA)
: ss.
COUNTY OF LEWIS AND CLARK)

I, LISA R. LESOFSKI, Registered Professional Reporter, Notary Public in and for the County of Lewis and Clark, State of Montana, do hereby certify:

That the hearing was taken before me at the time and place herein named; that the hearing was reported and transcribed by me with a computer-aided transcription system and that the foregoing -30- pages contain a true record of the hearing to the best of my ability.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 23rd day of October, 2001.

LISA R. LESOFSKI
Registered Professional Reporter
Notary Public
Commission Expires 3/31/04.

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31

U.S. Fish and Wildlife Service
Public Comments
Missouri River Master Manual Hearing
Helena, Montana
October 9, 2001

Good evening, my name is Mark Wilson and I'm here this evening on behalf of the U.S. Fish and Wildlife Service to issue a brief statement on the Revised Draft Environmental Impact Statement for the Missouri River Master Water Control Manual. I'm also here to personally listen to the comments of the citizens who are here this evening to testify on this important issue.

Under the Endangered Species Act Congress has given the Fish and Wildlife Service primary responsibility for the stewardship of our nation's rarest animals and plants. The Missouri River is home to the endangered pallid sturgeon and least tern, and the threatened piping plover. The decline of these species indicates that the river has changed in ways which now prevent it from sustaining some formerly abundant populations of native fish and wildlife.... and suggests that we should consider adjusting our present method of river management and try to restore the Missouri River to a healthier condition.

The Fish and Wildlife Service has a variety of facilities along and near the length of the Missouri River. These include National Wildlife Refuges, National Fish Hatcheries, as well as offices of Ecological Services, Fisheries Management Assistance, and Law Enforcement. The personnel working at these facilities allow the Fish and Wildlife Service to conserve and protect valuable fish and wildlife habitat, raise and release millions of fish, enforce laws designed to promote fish and wildlife conservation and conduct research on the biological well-being of the Missouri River.

The Missouri River should provide wildlife habitat, and support fishing, boating and other recreational activities. The river can also act as an enticement for tourism, as well as provide water to drink, to irrigate with and to support navigation... if we moderate and temper these uses and don't allow excessive use to impair the river's ability to provide a wider array of social benefits.

Congress has committed the Federal Government to work to prevent extinctions of rare animals and plants by requiring all Federal agencies to use their authorities to conserve endangered and threatened species. One of the Fish and Wildlife Service's primary roles is to assist other Federal agencies in designing and planning their programs to help them avoid actions that would contribute to further declines of rare species such as the pallid sturgeon, least tern, and piping plover. Over the last 12 years our agency has been working with the U. S. Army Corps of Engineers to modernize the management of the Missouri River to help stabilize and hopefully, begin to increase and recover populations of these vary rare animals. Our recommended approach was described recently in a document called the "Missouri River Biological Opinion," published in November 2000.

Our biological opinion outlines the status of the threatened and endangered species that are associated with the Missouri River and describes the effects that the current management scheme has upon them. The biological opinion also provides a reasonable and prudent alternative to the current operation that we believe will allow the Corps of engineers to manage the river and also be in compliance with the legal stipulations of the Endangered Species Act.....which in a nutshell says that *no federal agency can take actions that would jeopardize the continued existence of a threatened or endangered species or destroy or adversely modify habitat of such species which is determined to be critical.* With the biological opinion as a foundation, we will continue to work with the Corps to evaluate the six alternatives for a new Master Manual presented in the Revised Draft Environmental Impact Statement.

2

Our biological opinion is based on the best available science and includes nearly 500 scientific references. In addition, we sought advice from six respected scientists – "big river specialists" – who confirmed that there is a need to address flow management, in addition to physically restoring portions of the river channel to a more natural condition. Further, the Missouri River Natural Resources Committee has endorsed the science encompassed within the biological opinion. This is a group comprised of Missouri River management experts from the state fish and wildlife conservation agencies in each of the eight states in the Missouri River basin.

If you have read the RDEIS or summary document, you understand that the "GP alternatives" characterize the range of flows identified by the Fish and Wildlife Service that are necessary downstream from Gavin's Point Dam to prevent jeopardizing the continued existence of the three listed species. Our agency, and the Corps, also recognize the importance of having management flexibility to enable Missouri River managers to capitalize on existing water conditions to meet endangered species objectives. We believe that the Corps has done a good job of outlining the impacts - or lack thereof - associated with the various proposals to change how the Missouri River is managed.

Other management changes identified in the biological opinion include a "spring rise" out of Fort Peck Dam, an improved hatchery operation to assist declining pallid sturgeon populations, restoration of approximately 20% of the lost aquatic habitat in the lower 1/3 of the river, and intrasystem unbalancing of the three largest reservoirs. We are also recommending incorporation of an adaptive management strategy that would include improved study and monitoring of the river.

In closing, the Service endorses the identified goal of the revised master manual - to manage the river to serve the contemporary needs of the Missouri River Basin and Nation. These needs include taking steps to ensure that threatened and endangered species are protected while maintaining many other socioeconomic benefits being provided by the

3

operation of the Missouri River dams. The Service stands behind the science used in the biological opinion and is confident that the operational changes identified in the biological opinion, in addition to subsequent discussions with the Corps, will ensure that rare species of fish and wildlife continue to be a part of the Missouri River's living wildlife legacy.

The Missouri River is a tremendous river, with a cherished and celebrated heritage. Human influence has altered the river greatly. Changes are needed to modernize and restore biological health to the river – for the benefit of rare species and for people, too.

4

U.S. Environmental Protection Agency Public Comments

For Use At Missouri River Master Manual Hearings

Good evening, My name is Stephen Potts, and I am with the U.S. Environmental Protection Agency (EPA) Region 8 Montana Office here in Helena. I'm here this evening on behalf of EPA to present a statement regarding EPA's perspective on the Revised Draft Environmental Impact Statement for the Missouri River Master Water Control Manual. I'm also here this evening to listen to the comments in person from the public on this important decision.

The EPA has been involved in the Master Manual review during the past 12 years. One of the Environmental Protection Agency's jobs is to conduct independent reviews and provide written comments for all environmental impact statements. The law requires EPA to make its written comments available to the public.

When EPA reviews an Environmental Impact Statement, we focus on two main areas. One is the level of environmental effects of the proposed management plan or plans. The other is whether the Environmental Impact Statement includes all of the analyses needed to understand the impacts of each plan under consideration, and if so, whether impacts are adequately analyzed and disclosed.

EPA's review includes a "rating" using a rating system that evaluates these two aspects of the EIS: 1) the level of environmental impact of the plan or plans; and 2) the adequacy of the impact analysis and disclosure – i.e., were all the major environmental impacts identified, adequately analyzed, and clearly explained in the document?

EPA and the Corps met during the past year to discuss EPA's main concerns with previous Master Manual NEPA documents. Unfortunately, the pressing Master Manual EIS schedule did not allow enough time for EPA and the Corps to fully come to agreement on how our major concerns were to be addressed in the Revised Draft EIS. EPA's review during the comment period for the EIS will be the opportunity for EPA to understand how the Corps has addressed each of our concerns.

Our major concerns with previous drafts of this Environmental Impact Statement have included the following:

1. The need for the Corps to consider a broad range of reasonable alternatives, including alternatives that might go beyond their jurisdiction;
2. The analysis of alternative plans should consider all of the activities affecting the Missouri River ecosystem, not simply proposed changes to dam operations;
3. The EIS must identify and analyze water quality impacts of each plan;
4. The Corps should describe how significant environmental impacts of each plan could be mitigated or offset;
5. The EIS needs to identify and analyze impacts on Tribes posed by each plan;
6. The EIS should describe all of the environmental costs and benefits associated with each plan;
7. The document should describe the uncertainty, or possible sources of error in the analyses, how that uncertainty affects the comparison among alternative plans, and how they have selected the preferred plan;
8. The EIS must evaluate each plan for compliance with all environmental laws, including the Clean Water Act and the Endangered Species Act; and finally
9. The EIS needs to be readily understandable to the public.

These concerns are discussed in detail in EPA's two previous comment and rating letters. Within the next several days, those letters will be available on the EPA website:

http://www.epa.gov/region08/laws_enforcement/nepa/nepadocs/nepadocs.html

(Click on Missouri River Master Manual)

EPA supports the stated goal of the revised Master Manual - to better manage the river to serve the contemporary needs of the basin and Nation. Those needs include ensuring that the natural resources of the River are managed sustainably, so that it can continue to provide many of the socioeconomic benefits we have come to depend on. EPA understands that the issues and concerns are complex. This is why EPA teamed with the Corps of Engineers to ask the National

Academy of Sciences to provide an objective study, by national experts, on the state of scientific information about Missouri River management. The study will also recommend ways to improve scientific knowledge of the Missouri River ecosystem, and approaches to adaptive management of the Missouri River and floodplain ecosystem. Since we don't know all the answers about how best to protect the river's natural resources, we need to try new management approaches, test their success, and modify them to meet the objectives of improving overall health of the River.

We believe the science supports proposed changes in river operations to protect water quality, endangered species and the many other natural resources treasured by those who live along the river and in the basin.

morivMMhearing.wpd

POPLAR, MONTANA TRANSCRIPT— OCTOBER 10, 2001

1

U.S. ARMY CORPS OF ENGINEERS

PUBLIC HEARING
RE: REVISED DRAFT ENVIRONMENTAL IMPACT STATEMENT

POPLAR, MONTANA
OCTOBER 10, 2001
7:00 P.M.

Personnel in Attendance:

Lt. Col. David Ubbelohde
Larry Cieslik
Rose Hargrave
Roy McAllister
Paul Johnston
Richard Moore
Patti Lee
Jody Farhart
John LaRandeau
Betty Newhouse

Witnesses:

Mark Wilson
Buzz Mattelin

2

BE IT REMEMBERED, that on October 10, 2001, at the American Legion, Poplar, Montana, before Hearing Officer Lt. Col. David Ubbelohde, the following proceedings were had:

(Proceedings commenced at 7:00 p.m.)

LTC. UBBELOHDE: Good evening. If we could get started.

Welcome to this evening's comment session on the Revised Draft Environmental Impact Statement for the Missouri River Master Manual.

My name is Lt. Col. Ubbelohde, Commander of the Omaha District for the U.S. Army Corps of Engineers. With me tonight are the members of the team that prepared the Revised Draft Environmental Impact Statement. They are Larry Cieslik, Roy McAllister, Richard Moore, John LaRandeau, Patti Lee, Rosemary Hargrave, Paul Johnston, Jody Farhart, and Betty Newhouse.

This is the second of fourteen sessions from Helena to New Orleans. This afternoon we conducted an open house workshop. I hope that many of you were able to stop by and study some of the displays, pick up handouts and talk to our staff. If you weren't, please take a few moments this evening to visit the displays set up in the room next door.

Our agenda tonight will start with a short video.

There's a welcome from Col. David Fastabend, the Northwestern Division Commander, followed by a description of the projects, the features of the Revised Draft Environmental Impact Statement and the major impacts.

We want everyone to have a common understanding of the RDEIS. Copies of the summary and handouts, as well as the entire document, are available at libraries and project offices throughout the basin. Also, you can get a copy by writing to us or off of our web site. Addresses are available, so just see one of our team members.

Following the video, I will give a little fuller description of the comments process tonight and then take your comments. We'll stay as long as necessary for everyone to be heard. With that, we'll begin.

(Video presentation.)

LT. COL. UBBELOHDE: This hearing session will come to order.

Good evening, ladies and gentlemen. My name is Lt. Col. Ubbelohde, Commander of the Omaha Engineer District, U.S. Army Corps of Engineers, and I will be the Hearing Officer for tonight's session.

Our purpose this evening is to conduct a public hearing on proposed changes to the guidelines of the Missouri River Mainstem system operations.

I would like to acknowledge and thank the Assiniboine

and Sioux Tribes of Fort Peck for requesting and participating in this public hearing. This hearing is held in the true spirit of government-to-government relations that the Corps of Engineers wants to maintain with the tribes in the Missouri River basin.

Assisting me this evening are Larry Cieslik, Rose Hargrave, Roy McAllister, Paul Johnston, Rick Moore, Patti Lee, Jody Farhart, John LaRandeau and Betty Newhouse. These folks will be available after the hearing if you have any questions.

Before I proceed, I want to recognize any elected officials or representatives that may be present. Are there any elected officials here? Okay.

This hearing is being recorded by Lisa Devine. She will be taking verbatim testimony that will be the basis for the official transcript and a record of this hearing. This transcript, with all written statements and other data, will be made a part of the Administrative Record for Action.

Persons who are interested in obtaining a record of the transcript for this session or another session can do so. A copy of this transcript will be provided to participating tribes. Persons interested in receiving a copy need to indicate this on one of the cards available at the table by the entrance. Also, if you are not on our

5

mailing list and desire to be so, please indicate so on one of the cards as well.

In order to conduct an orderly hearing, it is essential that I have a card from anyone desiring to speak that gives your name, and if you are representing anyone other than yourself, please state that as well. If you desire to make a statement and have not filled out a card, please raise your hand and we will make a card available to you.

The primary purpose of tonight's session is to help ensure that we have all the essential information that we need to make our decision on establishing the guidelines for the future operations of the Mainstem system and that this information is accurate. This is your opportunity to provide us with some of that information. We view this as a very important opportunity for you to have an influence on that decision; therefore, I'm glad that you're here tonight.

I want you to remember that tonight's forum is to discuss the proposed changes in the operation of the Missouri River Mainstem system that are analyzed in the recently released Revised Draft Environmental Impact Statement. We should concentrate our efforts this evening on issues specific to that decision and should refrain from discussing the Corps of Engineers in general.

6

It is my intention to give all interested parties an opportunity to express their views on the proposed changes fully, freely and publicly. It is in the spirit of seeking full disclosure and providing an opportunity for you to be heard regarding the future decision that we have called this hearing. Anyone who wishes to speak or make a statement will be given the opportunity to do so.

The Missouri River Mainstem system consists of Corps of Engineers constructed and operated projects, so officially, that makes us a project proponent. However, it is our intention that the final decision on the future operational guidelines for these projects reflects a plan that considers all views of all interests focusing on the contemporary and future needs served by the Mainstem system and meets the requirements established by Congress.

As the Hearing Officer, my role and responsibility is to conduct this hearing in such a manner as to ensure full disclosure of all relevant facts bearing on the information that we have currently before us. If the information is inaccurate or incomplete, we need to know that, and you can help us make this determination.

Ultimately, the final selection of a plan that provides the framework for the future operations of the Mainstem system will be based on the benefits that may be expected to accrue from the proposed plan, as well as the

probable negative impacts, including cumulative impacts. This includes significant social, economic and environmental factors.

Should you desire to submit a written statement and do not have it prepared, you may send it to the U.S. Army Corps of Engineers in Omaha, and we'll provide the address. You may also fax your comments, and we can provide the fax number if you are interested in that.

The official record for this hearing will be open until 28 February 2002. To be properly considered, your written statement must be postmarked by that date.

Before I begin taking testimony, I would like to say a few words about the order and procedure that will be followed. When we call your name, please come forward to the lectern, state your name and address, specify whether or not you are representing a group, agency, organization, or if you are speaking as an individual.

If you are going to read a statement, we would appreciate it if you could provide a copy to the court reporter prior to speaking, so that your remarks will not have to be taken down verbatim.

After all statements have been made, time will be allowed for any additional remarks. During the session I may ask questions to clarify points for my own satisfaction. Since the purpose of this public hearing is

to gather information which will be used in evaluating the proposed plan or alternatives to it, and since open debate between members of the audience would be counterproductive to this purpose, I must insist that all comments are directed to me, the Hearing Officer.

With the exception of public officials, and apparently we have none tonight, persons will be given an equal opportunity to comment.

I will now begin by calling names of those who have submitted cards, beginning with...

MR. MOORE: Mark Wilson.

MR. WILSON: "Good evening, my name is Mark Wilson and I'm here this evening on behalf of the U.S. Fish and Wildlife Service to issue a brief statement on the Revised Draft Environmental Impact Statement for the Missouri River Master Water Control Manual. I'm also here to personally listen to the comments of the citizens who are here this evening to testify on this important issue.

Other 204

"Under the Endangered Species Act Congress has given the Fish and Wildlife Service primary responsibility for the stewardship of our nation's rarest animals and plants. The Missouri River is home to the endangered pallid sturgeon and least tern, and the threatened piping plover. The decline of these species indicates that the river has changed in ways which now prevent it from sustaining some

9

formerly abundant populations of native fish and wildlife....and suggests that we should consider adjusting our present method of river management and try to restore the Missouri River to a healthier condition.

"The Missouri River should provide wildlife habitat, and support fishing, boating and other recreational activities. The river can also act as an enticement for tourism, as well as provide water to drink, to irrigate with and to support navigation...if we moderate and temper these uses and don't allow excessive use to impair the river's ability to provide a wider array of social benefits.

"Congress has committed the Federal Government to work to prevent extinctions of rare animals and plants by requiring all Federal agencies to use their authorities to conserve endangered and threatened species. One of the Fish and Wildlife Service's primary roles is to assist other Federal agencies in designing and planning their programs to help them avoid actions that would contribute to further declines of rare species such as the pallid sturgeon, least tern, and piping plover. Over the last 12 years our agency has been working with the U.S. Army Corps of Engineers to modernize the management of the Missouri River to help stabilize and hopefully, begin to increase and recover populations of these very rare

10

animals. Our recommended approach was described recently in a document called the 'Missouri River Biological Opinion,' published in November 2000.

"Our biological opinion outlines the status of the threatened and endangered species that are associated with the Missouri River and describes the effects that the current management scheme has upon them. The biological opinion also provides a reasonable and prudent alternative to the current operation that we believe will allow the Corps of Engineers to manage the river and also be in compliance with the legal stipulations of the Endangered Species Act.....which in a nutshell says that no federal agency can take actions that would jeopardize the continued existence of a threatened or endangered species or destroy or adversely modify habitat of such species which is determined to be critical. With the biological opinion as a foundation, we will continue to work with the Corps to evaluate the six alternatives for a new Master Manual presented in the Revised Draft Environmental Impact Statement.

"Our biological opinion is based on the best available science and includes nearly 500 scientific references. In addition, we sought advice from six respected scientists - 'big river specialists' - who confirmed that there is a need to address flow management,

in addition to physically restoring portions of the river channel to a more natural condition. Further, the Missouri River Natural Resources Committee has endorsed the science encompassed within the biological opinion. This is a group comprised of Missouri River management experts from the state fish and wildlife conservation agencies in each of the eight states in the Missouri River basin.

"Management changes identified in the biological opinion include a 'spring rise' out of Fort Peck Dam, an improved hatchery operation to assist declining pallid sturgeon populations, restoration of approximately 20% of the lost aquatic habitat in the lower 1/3 of the river, and intrasystem unbalancing of the three largest reservoirs. We are also recommending incorporation of an adaptive management strategy that would include improved study and monitoring of the river.

"In closing, the Service endorses the identified goal of the revised master manual - to manage the river to serve the contemporary needs of the Missouri River Basin and Nation. These needs include taking steps to ensure that threatened and endangered species are protected while maintaining many other socioeconomic benefits being provided by the operation of the Missouri River dams. The Service stands behind the science used in the biological

opinion and is confident that the operational changes identified in the biological opinion, in addition to subsequent discussions with the Corps, will ensure that rare species of fish and wildlife continue to be a part of the Missouri River's living wildlife legacy.

"The Missouri River is a tremendous river, with a cherished and celebrated heritage. Human influence has altered the river greatly. Changes are needed to modernize and restore biologic health to the river - for the benefit of rare species and for people, too."

LT. COL. UBBELOHDE: Thank you.

MR. MOORE: Buzz Mattelin.

MR. MATTELIN: Buzz Mattelin, P.O. Box 601, Culbertson, Montana 59218.

My name is Buzz Mattelin. I'm an irrigator and farmer about 15 miles downstream of Poplar, and I would like to thank you for coming to Montana to relieve some of our travel problems to get to these type of meetings.

My family's got quite a long history with the river. My grandfather came here in the early 1900s and settled along the river. He was here before the dam. I had a great uncle that died working on the Fort Peck. I have lived here all my life, except for some college years.

We've seen lots of changes over these years. In the recent past, in the true pioneer spirit, we decided to

13

1 help ourselves to the natural resources. We have had a
2 large increase in the irrigation in this reach of the
3 river in the last ten years, probably up in the
4 neighborhood of 40 to 50,000 acres from Fort Peck to the
5 confluence of the Yellowstone. A lot of this expansion
6 has been fueled by increases in high-value crops, such as
7 sugar beets, and a lot of projects that were built based
8 on historic stream flows.
9 And I pulled something off the USGS site this summer,
10 and it gives the stream flow for June 9th through the
11 16th, and out of 54 -- 53 years of record, it ranged
12 between about 8,200 CFS to a height of 9,000.
13 And I guess I'm speaking specifically to the proposed
14 flow modifications out of the Fort Peck. The mini test
15 and full test proposed releases will be about three times
16 what this median daily stream flow would be. This is
17 quite a burden on the irrigators, and as a close
18 assessment, there's about 125 water intakes on this reach
19 of the river. Most of the irrigation is private
20 development, it's not a public -- it's not a government
21 project.
22 There's one government project between Wolf Point and
23 Oswego, it's about 18,000 acres, and on the other side of
24 the confluence to get to the Buford Trenton project, but
25 all the other development in between is private.

WS 21

14

1 I guess some of the unknowns with the spring rise on
2 the Fort Peck is how high the water's going to get. And
3 currently there's no flow model that will accurately
4 predict what the stage of the river will be at 23,000 CFS.
5 To back up, I guess, there was a timely thing in the
6 Sunday Billings Gazette (indicating). It talks about
7 farming for produce, and it talks about this
8 Montana/Dakota region, North Dakota and Montana raising
9 high-value crops. And the research centers at Sidney and
10 Williston have done quite a bit of work on vegetables, and
11 specifically sugar beets, potatoes, carrots and onions, as
12 far as providing produce to some of the metropolitan areas
13 and Canada and in the northern United States.
14 Dollar-wise, we can't raise high-value crops if we
15 can't pump water for three weeks every three years, which
16 is the proposed spring rise. The dollar impact is that if
17 we can't raise sugar beets and we are forced into a crop
18 and to wait for water, we are talking about 5 to $10
19 million on this reach of river.
20 I guess some other concerns that we have -- that
21 I have is rolling the mini test and full test into an
22 RDEIS. We were kind of highlighted in the environmental
23 assessment process with the district, and when we were
24 going through that process we were wondering if we were
25 going to get lost in the vastness of this process.

Other 83

Other 82

Other 201

Of the alternatives, I don't see which one's the preferred alternative. It's kind of a moving target when we can't focus on one. It's hard to find anything positive to Fort Peck Lake and this part of Montana and North Dakota in any of the alternatives.

Other 201 (con't)

Of all the alternatives, I think in only one did Fort Peck stay three feet higher than it did in the '80s. The other ones dropped to the same level.

Other 202

Adaptive management I think is a good thing, as long as there's some local voice in it. I would like to see some type of recovery team maybe in the area for the implementation of the whole test.

Other 10

And I think that's it. Thank you.

LT. COL. UBBELOHDE: Thank you.

Is there anyone else that wishes to testify? Okay.

In closing, I would like to remind you that the hearing administrative record will be open through 28 February 2002 for anyone who wishes to submit written facts or fax or electronic comments.

Also, if you want to be on our mailing list to receive a copy of the transcript, you need to fill out one of the cards available at the table by the entrance.

If there are no further comments, I would like to thank everybody for coming. The session is closed.

(Public hearing adjourned.)

CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Lisa Lewis Devine RMR 10/17/01

LISA LEWIS DEVINE, RMR DATE

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SIOUX CITY, IOWA TRANSCRIPT— OCTOBER 11, 2001

SIOUX CITY, IOWA

In Re: MISSOURI RIVER BASIN
WATER MANAGEMENT DIVISION
U.S. ARMY CORPS OF ENGINEERS
NORTHWESTERN DIVISION

The following is a court reporter's transcript of a Public Hearing held at the Hamilton Inn, 1401 Zenith Drive, Sioux City, Iowa, on Thursday evening, October 11, 2001, commencing at 7:00 p.m., before LTC Kurt F. Ubbelohde, Hearing Officer.
Reported By: Colin J. Campbell, CSR, State of Iowa

* * *

Missouri River, Master Manual Primary Team present:

Larry Cieslik	Rosemary Hargrave
Roy McAllister	Paul Johnston
John LaRandeau	Richard Moore
Judy Farhat	Patti Lee
Betty Newhouse	

THE HEARING OFFICER: Good evening. This is a public hearing on the revised draft of the environmental impact statement for the Missouri River Master Manual. My name is Kurt Ubbelohde, Lieutenant Colonel, Commander of the Omaha Engineer District for the Corps of Engineers. With me tonight are members of the team that prepared the revised draft environmental impact statement, Larry Cieslik, Roy McAllister, Rick Moore, John LaRandeau, Patti Lee, Rose Hargrave, Paul Johnson, Jody Farhat and Betty Newhouse.

This is the third of 14 sessions from Helena to New Orleans. This afternoon we conducted an open house workshop. I hope that many of you had the opportunity to stop by and study the displays, pick up handouts and talk with the staff. If you weren't able to attend, please take a few moments this evening to visit the displays, they're set up in the room next door.

Our agenda tonight will start with a short video. There is a welcome from Colonel David Fastiven, the Northwestern Division Commander, followed by a description of the project, features of the RDEIS and the major impacts.

We want everyone to have a common

1 understanding of the RDEIS. Copies of the summary
2 and handouts as well as the entire documents are
3 available at libraries and project offices
4 throughout the basin. Also you can get a copy by
5 writing to us or off of our website, and the
6 addresses are available in the back of the room.
7 Following the video I will give a little
8 fuller description of the comment process tonight
9 and then we'll take your comments. We'll stay as
10 long as necessary for everyone to be heard. With
11 that let's begin.
12 (Video presentation.)
13 THE HEARING OFFICER: This hearing
14 session will come to order. I am Lieutenant
15 Colonel Kurt Ubbelohde, Commander of the Omaha
16 District. I will be the hearing officer for
17 tonight's session. Our purpose this evening is to
18 conduct a public hearing on proposed changes to the
19 guidelines for the Missouri River mainstem system
20 operations. Assisting me this evening are members
21 of the team who prepared the RDEIS. I introduced
22 them a few moments ago. These folks will be
23 available after the hearing if you have any
24 questions.
25 Before I proceed I'd like to recognize the

1 following elected officials: The Mayor of Sioux
2 City, Iowa, Mr. Martin Dougherty, and the Mayor of
3 South Sioux City, Nebraska, Mr. Bill McLarty. Do
4 we have any other elected officials or
5 representatives who wish to be recognized tonight?
6 SENATOR REDWINE: Senator John
7 Redwine, state of Iowa.
8 THE HEARING OFFICER: This hearing is
9 being recorded by Mr. Colin Campbell, Cassel Court
10 Reporting, Sioux City, Iowa, who will be taking
11 verbatim testimony that will be the basis for the
12 official transcript and record of this hearing.
13 This transcript with all written statements and
14 other data will be made part of the administrative
15 record for action. Persons who are interested in
16 obtaining a copy of this transcript for this
17 session or any other session can do so. Persons
18 interested in receiving a copy need to indicate
19 this on one of the cards available at the table by
20 the entrance.
21 Also if you are not on our mailing list
22 and desire to be so, please indicate on one of the
23 cards.
24 In order to conduct an orderly hearing it
25 is essential that I have a card from anyone

desiring to speak that gives your name and who you represent. If you desire to make a statement and have not filled out a card please raise your hand and we'll hand one to you at this time.

The primary purpose of tonight's session is to help ensure that we have all the essential information that we will need to make our decision on establishing the guidelines for the future operations of the mainstem system and that this information is accurate. This is your opportunity to provide us with some of that information. We view this as a very important opportunity for you to have an influence on this decision. Therefore, I'm glad that you're all here to night.

I want you to remember that tonight's forum is to discuss the proposed changes in the operation of the Missouri River mainstem system that are analyzed in the recently released revised draft environmental impact statement. We should concentrate our efforts this evening on issues specific to that decision and should refrain from discussing Corps of Engineers in general.

It is my intention to give all interested parties an opportunity to express their views on the proposed changes freely, fully and publicly.

It is in the spirit of seeking a full disclosure and providing an opportunity for you to be heard regarding the future decision that we have called this hearing. Anyone wishing to speak or make a statement will be given the opportunity to do so.

The Missouri River mainstem system consists of Corps of Engineers' constructed and operated projects, so that officially makes us a project proponent. However, it is our intention that the final decision on the future operational guidelines for these projects reflect a plan that considers the views of all interests, focuses on the contemporary and future needs served by the mainstem system and meets the requirements established by Congress.

As Hearing Officer, my role and responsibility is to conduct this hearing in such a manner as to ensure full disclosure of all relevant facts bearing on the information that we currently have before us. If the information is inaccurate or incomplete, we need to know that, and you can help us make that determination.

Ultimately the final selection of a plan that provides the framework for the future operations of the mainstem system will be based on

the benefits that may be expected to accrue from the proposed plan, as well as the probable negative impacts, including cumulative impacts. This includes significant social, economic and environmental factors.

Should you desire to submit a written statement and do not have it prepared, you may send it to the United States Army Corps of Engineers in Omaha, Nebraska, and again the address is available in the back of the room. You may also fax your comments, and we can provide you that number, and we can provide an e-mail address if you wish to e-mail it. The official record for this hearing will be open until 28 February 2002. To be properly considered your written statement must be postmarked by that date.

Before I begin taking testimony I would like to say a few words about the order and procedure that will be followed. When we call your name please come forward to the lectern, state your name and address and specify whether or not you are representing a group, agency, organization or if you are speaking as an individual. You will be given five minutes to complete your testimony. If you are going to read a statement we would

appreciate it if you could provide a copy to the court reporter prior to speaking so that your remarks will not have to be taken down verbatim.

After all statements have been made, time will be allowed for any additional remarks. During the session I may ask questions to clarify a point for my own satisfaction. Since the purpose of this public hearing is to gather information which will be used in evaluating the proposed plan or alternative to it, and since open debate between members of the audience would be counterproductive to this purpose, I must insist that all comments be directed to me, the Hearing Officer.

With the exception of public officials or their representatives who will speak first, speakers will be given an equal opportunity to comment. Please remember, speakers, you will be limited to five minutes. We will be using a lighted timer. When the yellow light comes on it means you have two minutes of time remaining. When the red light comes on your five minutes are up. No portion of unused time allotted to each speaker maybe transferred to any other presenter. The purpose of the hearing is to permit members of the public an equal opportunity to concisely present

their views, information or evidence. If we allow one speaker to stockpile unused time of others the result may be that the hearing record will be unfairly tainted and others waiting to speak may be discouraged from doing so.

I will now call on the names of those who have submitted cards beginning with the elected officials.

MR. MOORE: Bill McLarty.

MR. MCLARTY: My name is Bill McLarty, M-C-L-A-R-T-Y. I live at 320 East 31st Street, South Sioux City. I am the Mayor of South Sioux City.

I also have the privilege of being chairman of SIMPCO. SIMPCO is the Siouxland Metropolitan Planning Council. It is made up of 60 plus members, made up of city and county government agencies. We do regional planning for the Siouxland area in the areas of transportation, economic development, community development and other areas of common interest.

With me tonight are a number of our members. First we have Marty Dougherty from Sioux City. We have Wes Whitehead from the city of Sioux City. We have Harold Higman from Akron, John

Lucken from Akron, Darrel Curry from Dickson County, Chuck Soderberg from LeMars, Leonard Marron from Newcastle, Paul Sitzmann from Plymouth County, Paul Licht from Sergeant Bluff, Ron Rapp from South Sioux city, and we also have Jim Hurm, our executive director.

First I want to thank you for this opportunity to give input. The main parts of the SIMPCO testimony have been presented to you in writing earlier today.

In a way of introduction we recognize that the Pick-Sloan plan and related Missouri River projects have greatly altered the Missouri River basins. Changes that have affected our communities in a positive way include, among others, flood control, navigation, reliable water supply, recreation, power generation, and bank stabilization. Some of the changes have had a negative effect. They can be addressed in a thoughtful, environmentally sound, cost effective manner.

Streambed degradation. The impacts of the riverbed degradation have been very negative on wetlands, marinas, boat ramps, oxbows, water supplies and indigenous species. Head cutting is

ErSd 18

1 occurring in the tributaries causing streams to
2 deepen, which then requires bridge replacements and
3 road repairs. Spring flooding on a three-year
4 average will increase the streambed degradation
5 problems.

ErSd 18 (cont'd)

6 Spring rise. Allowing intermittent spring
7 flooding raises the potential for increased local
8 flooding, as well as interior drainage and
9 groundwater problems within our communities. This
10 raises the prospect for significant expenditures
11 for mitigation and reparation.

FC 8
IntD 8
GW 7

12 Hydropower. On a basin-wide perspective,
13 the spring floods will likely result in a two
14 percent loss of hydropower generation, a
15 significant reduction in renewable and
16 environmentally friendly hydroelectricity.

HPower 1

17 Loss of Habitat. Restoration and
18 management of reproductive habitat for the
19 endangered and threatened species should be a high
20 priority for the non-channeled river reaches and
21 selected tributaries. The loss of habitat has also
22 led a dramatic decrease in populations of other
23 indigenous species. Habitat restoration projects
24 in the channeled portions of the Sioux City reach
25 should be directed toward these non-endangered or

WRH 6

1 non-threatened species. A greater number of
2 species could be aided with this strategy, which is
3 outlined specifically in my written testimony.
4 Low Summer Releases would lower water
5 levels in wetlands during the critical summer
6 months. The low flows would seriously impact
7 navigation and the businesses that depend on it.
8 It would also have serious negative impacts on
9 marinas, boaters, recreation and water supply. The
10 current flow regimen has worked well in the Sioux
11 City reach.

Rec 4, 6

Nav 45, 46

12 Analysis Needed. Any modifications made
13 to the current regimen should be analyzed both
14 before and during the changes. The study process
15 should utilize regional and local scientists as
16 partners.

Other 3,6,10

17 Creation of New Habitat. Additional
18 habitat needs to be created both on channel and off
19 channel. Our written testimony makes specific
20 recommendations on the types of habitat that are
21 needed. Projects to divert water through a system
22 of winged dams and notched dikes would allow water
23 to decrease in velocity and increase in surface
24 area, thereby improving fish and other aquatic
25 habitats. Such projects could be undertaken with

WRH 6

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Page 13

1 the current Corps' authority. Funding must include
2 monitoring by area biologists and other scientists.
3 We encourage you to take the route of
4 restoring wetlands and expanding habitat rather
5 than other more drastic approaches which can have
6 devastating effects on our communities and our
7 region. As the regional council of governments,
8 SIMPCO offers to work with you in these efforts.
9 Thank you very much for your time.
10 MR. MOORE: Martin Dougherty.
11 MR. DOUGHERTY: Good evening. I want
12 to also welcome you to Sioux City and thank you as
13 well for being here to listen to testimony from the
14 people in our area, in the Siouxland area, and also
15 for considering our views on this very important
16 subject to us here in the Siouxland region.
17 The city of Sioux City is a member of
18 SIMPCO and we are generally in support of the
19 comments that you just heard from Mayor McLarty and
20 the written comments that have been submitted. We
21 are in support of those as well. We may submit
22 additional written comments at a later date and
23 timely in your schedule.
24 I would just like to add a few other
25 things though to his comments. We believe that the

Other 119

Other 70

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1 operation of the system has been satisfactory and
2 is not in need of major alterations. We do favor
3 the current water control plan, and we believe that
4 this plan generally offers better interior
5 drainage, protects navigation and minimizes stream
6 bed degradation and lateral bank erosion. I
7 believe it is also superior for the timing of power
8 generation.
9 I would like also to add to that something
10 that I think I have heard many times in the debates
11 over this. Oftentimes characterizing this issue,
12 although obviously it's much more complicated than
13 that, I think your information is very informative,
14 oftentimes a debate is characterized as one of
15 upstream recreation versus downstream navigation.
16 And each time I hear that kind of debate I always
17 quickly add that from the standpoint of those of us
18 here in Sioux City, that we have recreation
19 interests here as well that we think are as
20 significant as recreation interests upstream. And
21 I believe in your report you mentioned that some of
22 the plans would have serious negative impacts on
23 the recreation of the users of the Missouri River
24 in the Sioux City area, and we are very concerned
25 about that. Obviously we are also concerned about

Other 6

FC 25
Nav 51
ErSd 18
HPower 18

Rec 6,10

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navigation and potential negative impacts to the economy in this area, not only in Sioux City itself and businesses that operate here, but also the entire region and the agricultural region that we rely on here in Sioux City.

Nav 7, 6, 8, 12

So our principal concerns have been stated already, and we would reiterate those, and as I said make reference to those that are being submitted by SIMPCO.

And I would just close with, because I know there are a lot of people here who would like to speak, to underscore that we encourage you to look at taking the route of restoring wetlands and expanding habitats rather than taking the more drastic approaches, particularly the alteration of flow below Gavins Point which we believe has the potential of a devastating impact on our communities in our region, in Sioux City, and we certainly offer to work with you on these efforts. Thank you.

Other 70

MR. MOORE: John Redwine.

SENATOR REDWINE: Thank you. I too would like to welcome the Corps, and appreciate the opportunity to give a few comments. I have a number of constituents who are affected by this

issue. I believe that the current plan has been in place and has done an admirable job for over 50 years, long before many of us in this room were even born, when this plan was born.

Other 6

I don't wish to return to the dramatic rise and decrease in the flow of the Missouri River any more than I would wish to return to the polio epidemics we experienced in the early 1950s. And while many people in this room's livelihood depends on the Missouri River, I believe that that must be considered in any change the Corps plans to make in the flow of the river. Thank you.

MR. MOORE: Michael Wells.

MR. WELLS: Good evening. My name is Michael Wells. I'm Chief of Water Resources for the state of Missouri. I represent Steve Mahfood, Director of the Missouri Department of Natural Resources, on interstate water issues. Mr. Mahfood serves as Missouri Governor Bob Holden's delegate to the Upper Mississippi River Basin Association and the Missouri River Basin Association.

First I want to thank you for the opportunity to speak here tonight in giving the state of Missouri and the public an opportunity to express our views on the management of the Missouri

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River. The state of Missouri has several significant concerns about the plans currently under consideration.

Our greatest concern is that all new plans currently being considered contain consistently higher water levels in the reservoirs. We have not seen evidence that consistently higher reservoir levels would provide any benefit to the endangered species. In fact, increasing the water levels in the lakes could be detrimental to many of the native species living in the Missouri River system, including the interior least tern, the piping plover and the pallid sturgeon.

We are also concerned that holding reservoirs higher would significantly reduce the ability of the Corps to ensure that the river is managed to the benefit of all the residents of the basin. The Corps must have adequate flexibility to respond to a wide variety of situations, both anticipated and unforeseen. We believe the proposed reservoir levels would limit the Corps' capacity to perform this statutorily mandated role. Higher reservoir levels would restrict the use of water by downstream states and be extremely detrimental to the future welfare of Missourians.

EnSp 9

EnSp 22

Other 7,198

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The state of Missouri opposes the spring rise in the Gavins Point plans. None of the alternatives including a spring rise provide significant benefits to the species. This is due to the fact that the majority of the Missouri River below Gavins Point Dam already receives a natural spring rise from tributary inflow and that the degraded channel immediately below Gavins Point provides little opportunity for flood plain connectivity.

A spring rise of 17,500 cfs increases the river by approximately two feet at flood stage. We appreciate the fact that the Corps of Engineers would not intentionally release higher flows during a downstream flood event. However, due to the ten to 12 days travel time from Gavins Point to St. Louis, the probability of a storm event being added to an artificial increase in flow is great, especially during a time of the year when there is already a high probability of flooding on the Missouri.

In addition to the concerns about increased risk of flooding, average river levels will be as much as four feet higher in the Missouri part of the river. This would subject thousands of

EnSp 29

FC 8

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acres of the nation's most valuable agricultural land in western Iowa and northwest Missouri to higher groundwater levels and inadequate drainage during the spring when crops are being planted.

FC 8
IntD 8
GW 8

We disagree with the Corps' statement in the summary RDEIS that the reductions in flood control benefits are insignificant. We feel that the Corps has grossly underestimated the impacts of an artificial spring rise on the drainage of agricultural land throughout the lower basin.

We are disappointed that the river enhancement flow plan proposed by the Missouri Department of Conservation and endorsed by both the Missouri Department of Natural Resources and the Missouri River Basin Association was not presented as one of the final alternatives in the RDEIS.

Other 142

However, we are still hopeful that this plan will be adopted in the final EIS. The plan provides reduced flow of 41,000 cfs at Kansas City from August the 1st through September the 15th. This proposal would ensure that the Missouri River remains a river of many uses. We believe that this plan provides the optimum flow level to balance the interests of the endangered species, recreation and the continued support of other river uses.

In addition, this proposal more closely matches the time of the natural hydrograph. It also acknowledges the unassailable fact that June and July were historically the two months of highest flow due to the natural timing of the mountain snow pack.

Other 142

Proposals to depart from this current Missouri River operation must also consider the effects of any changes on the Mississippi River. Earlier this year Governor Holden joined eight other governors in requesting that the President of the United States convene an inter-agency group, including the Secretaries of Transportation and Agriculture, to review the implications of these proposals prior to implementation.

Other - 127

In a recent letter to Governor Holden, Principal Deputy Assistant Secretary of the Army for Civil Works Dominic Izzo indicated he would be conferring with the Office of the President to address this request. Because changes on the Missouri River can impact the Mississippi River, it is extremely important that proper consideration be given to uses of both rivers.

The Missouri River is one of our nation's most valuable natural resources. As good stewards

of this resource, it is critical that we protect the river by making decisions regarding its future in a careful and deliberate manner.

The state of Missouri looks forward to continuing an open dialogue with the Corps as we strive to reach a plan that provides the greatest benefits for all. Thank you for the opportunity to speak tonight.

MR. MOORE: Richard Spellman.

MR. SPELLMAN: I'm Richard Spellman. My address is 705 North 57th Avenue in Omaha. I have a place of residence on the Missouri River at Lazy River Acres near Verdel, and I'm here as a citizen, although I know Knox County Board of Supervisors and the village council and they know I'm here. While I'm not authorized to speak on their behalf, the things I am going to say I believe represent their views.

I'd like to have that inserted into the record. It's a series of letters that I've written to those and others who I see here.

I'd just like to thank the Corps of Army Engineers very much for their candid responses to me.

My focus is very narrow. It is the reach

of the Missouri River below Fort Randall Dam to the area of the delta at the confluence of the Niobrara River and the Missouri. I just wish to point out that that reach of the river, about 35 miles, is a federally designated recreation river and scenic river. And the effects of the split flows that are being proposed in various different ways would affect this reach of the river in ways that are probably different than any other reach of the river, simply because the releases from Gavins Point are essentially the same releases as from Fort Randall Dam, and in all the material that's been presented the discussion focuses on Gavins Point releases. But those are all releases supported by Fort Randall Dam. And in the summer months when low releases are being proposed, actually their releases from Fort Randall would be lower because of the tributaries coming into the Missouri and the Niobrara.

Rec 6, 35

If you're looking at low summer flows below Gavins Point, you're looking at much lower flows, three to 4,000 cfs, in the summer months which create a river which is unsafe and essentially not usable for recreation purposes.

Rec 34

I would also like to make the point that

as you regulate the river in the proposals that we're looking at, the late fall, spring releases necessary to evacuate the upriver reservoirs to levels that will accommodate spring and snowmelts into the bigger pools suggests that there will be years in which very high and damaging flood stage releases will be necessary as you regulate the river through the spring and summer and fall for the stated purposes. You're going to have to release high waters in some years to evacuate those reservoirs, and down below Fort Randall Dam those releases in the neighborhood of 50, 55,000 cfs are flood stage releases. FC 26

I just would like very much for the analysis to take into account this small kind of forgotten reach of the river which as those who have been on that reach know probably is as pristine a stretch of the Missouri River as there is anywhere, and it needs to be preserved and maintained for its federally designated purposes.

Involved in this problem for this area is the sediment build-up that we have experienced in the tailwaters of Gavins Point, in Lewis and Clark Lake and in the area where the Niobrara delta has already required the United States to spend ErSd 15

millions and millions of dollars to relocate a city and park to compensate farmers for the loss of their land.

In the low summer months, in the low flow summer months under the proposal, that sediment build-up will only be aggravated because there will be even less water to carry the sediment away. And so I believe that some form of sediment transportation, whether it's dredging that will create sandbars or any other solution will eventually be necessary in order to clear that channel for its intended uses in the future. Otherwise, the United States will eventually acquire by purchase all of that land because it will simply be inundated over time as a result of the sediment building up and continuing to build up and flooding that area. ErSd 15

So I think that the two forces we're seeing, the split flow proposal coupled with the sediment build-up, work together adversely in this area in a very unique way, and I would like very much for those who know this problem and understand it to focus their attention on this reach of the Missouri River. Thank you very much. Other A

MR. MOORE: James Heisinger.

MR. HEISINGER: I speak as an individual citizen. And I am Jim Heisinger. I'm a retired biology professor from Vermillion, South Dakota. I live on the bank of the Vermillion River, and I kayak, canoe, photograph and get spiritual nourishment if you will from the upper Missouri River. I grew up on the lower Missouri. And recently I bicycled across the Missouri along the Lewis and Clark Trail, and have bicycled across the upper Missouri. So I have a lot of experience with the entire river.

I'm very pleased that the Corps of Engineers and the U.S. Fish and Wildlife Service agree with the overwhelming scientific evidence that indicates that it is time to change the master manual. This evidence indicates that by altering the flow we can vastly increase fishing and recreational opportunities and save endangered and threatened species.

Other A,6

The U.S. Fish and Wildlife Service indicates that optimal changes would include adapted management, scientific tools, unbalancing the upper reservoirs, and modify Gavins Point releases. The releases include a spring rise and decreased summer flow.

Perhaps for wildlife the most efficacious of these GP plans is 2021. But that's for wildlife. How best should the river flow? The Corps of Engineers is certainly one of the most accomplished water control agencies in the world. Working with their biological staff in the Fish and Wildlife Service, they can determine which GP alternative does the most good and the least damage.

EnSp 8

I have great faith in you, the Corps of Engineers. Your studies of the physical outcomes of compliance with the GP alternatives indicate that none of the GP alternatives have significant impact on flood control. Groundwater and interior drainage impacts would be largely on land already impacted by current operations.

FC 9
IntD 10
GW 13

Efficiency of barge traffic on the Mississippi would increase, would actually increase enough to offset barge traffic on the Missouri if it were lost, in terms of dollars.

Nav 78

All of these parameters must be carefully monitored, and I'm sure you will monitor them carefully. Changes in the flow must be adjusted, and I'm sure you would adjust them. Adjust it so that it is necessary -- so that in the end, any

Other
3,10,119

1 necessary adjustments would result in both farmers
2 and environmentalists feeling that they have won.
3 I respectfully urge the Corps of Engineers
4 to obey the law and save our endangered species.
5 That action, obeying the law, will also boost the
6 financially successful recreation on the upper
7 Missouri. If you're successful all the citizens
8 will be proud of both the Corps of Engineers and
9 the U.S. Fish and Wildlife Service. Thank you very
10 much.
11 MR. MOORE: Sidney Wagner.
12 MR. WAGNER: I am Sidney Wagner, a
13 life-long resident of this area. I have lived out
14 at McCook Lake since 1964, and during this time I
15 have seen the negative effects of the streambed
16 degradation of the Missouri River. Water in front
17 of my house has dropped over five feet since I have
18 moved out there.
19 In order to maintain the water level in
20 the lake this past summer the residents of the lake
21 constructed a pipeline 7,500 long, 24 inches
22 diameter, powered by 50 and 60 horsepower electric
23 motors to lift the water ten feet up to bring it
24 into McCook Lake.
25 Over the winter when the pumps do not

Legal 1

ErSd 18

1 operate the water level in the lake drops by five
2 feet. These pumps are sufficient to bring the
3 water level in the lake up to approximately 1,089
4 feet above sea level. Because of the water
5 pressure difference we cannot raise the lake any
6 higher than that right now with the pumping
7 capacity that we have. We have been talking about
8 increasing up to a 24-inch pump with about a 300
9 horsepower electric motor in order to maintain a
10 viable water level in the lake.
11 We are concerned about the habitat loss in
12 the river too. The Izaak Walton League is very
13 concerned about endangered species, and that is a
14 very important part of our function. We also note
15 the loss of large catfish in the river. We feel
16 that's due to the rapid current of the water and
17 the loss of suitable habitat, places for the fish
18 to rest. The swift current is self-cleaning. The
19 river back in the early days before it was
20 channelized was full of deadheads, logs caught in
21 the currents, the river meandered. Therefore, the
22 fish had many places to rest and seek shelter and
23 feed. The current river does not provide any of
24 that anymore.
25 As a sort of solution to the riverbed

WRH 7,6

EnSp 34

degradation and provide habitat for fish, I would propose that in the deepest part of the river, especially along the outside of the bends where the river will be up to 25 feet deep, that culverts be placed in there, say about 20 feet long and maybe two to three feet diameter, and that the upstream portion needs to be covered with riprap to hold them in place. The open end of the culvert would provide habitat for the migrating catfish. It would tend to hold fish and provide increased recreational benefits for the people who use the river. Right now if you want to catch a large fish you have got to go up to the base of the dam or some other place. They just aren't here anymore because they can't survive in this swift current. Thank you.

ErSd 18

Fish 16

MR. MOORE: Jim Redmond.

DR. REDMOND: I thank the Corps for holding it's hearing in Sioux City. This is one of the critical spots along the river.

I'm Dr. Jim Redmond, conservation chair of the Northwest Iowa group of the Sierra Club. I have been coming to these Army Corps meetings since the 1980s, and since that time little has been done to keep the promises made when the Missouri was

channelized more than a half century ago.

The scientists and engineers who worked on that project knew that fish and wildlife were in jeopardy, that you would not destroy hundreds of thousands of acres of habitat and not push some species to the brink.

EnSp 25

Among its other mandates, the Army Corps was authorized by Congress to protect the fish and wildlife of the river system. Yet only a few million dollars have been spent on that portion of the law when almost half a billion dollars was requested for habitat loss mitigation in the 1950s. Now those scientific predictions have come true about jeopardizing wildlife. In addition to the three protected species mentioned most often in our discussions, there are many others in trouble, almost a fifth of all native species of the river system.

WRH 13

Nowhere in the summary of the revised environmental impact statement is there a description of how critical the situation is for these species. Only this June at a conference with Fish and Wildlife and Army Corps representatives did I get a picture of how serious the situation is. While the pallid sturgeon may be reproducing

EnSp 24

1 in captivity, there are only a handful -- a handful
2 -- of female fish capable of reproducing in the
3 wild. The Fish and Wildlife Service can find no
4 juvenile pallid sturgeon in the river. None. The
5 future of this species depends on a change in how
6 the river is managed.
7 The impact statement notes that the reach
8 of the river below Gavins Point sees a better rate
9 of success among the terns and plovers even though
10 there is much more nesting habitat below Garrison.
11 The Gavins Point release option 2021 is designed to
12 have greatest effect in that reach. More rapid
13 recovery of these species will occur if the Army
14 Corps adopts a flexible flow regime.
15 None of the options calling for a spring
16 rise is radical. A spring rise once every three
17 years is far from threatening to those who have
18 grown used to the current plan. Read the
19 environmental impact statement or its summary.
20 Flood control, hydropower, navigation, protection
21 of floodplain farms continue even with the proposed
22 Gavins Point releases.
23 Would the options in the revised
24 environmental impact statement for spring rises and
25 summer lows deal a fatal blow to the barge

EnSp 24 (con't)

EnSp 9

Other A

Nav 12

1 industry? No. There's still plenty of season for
2 moving tonnage. After a longstanding relationship,
3 the Army Corps is likely to continue working
4 closely with the barge industry. This transition
5 to a new master manual would require some
6 adaptation on the part of the barge industry. That
7 industry is capable of adaptation. The species are
8 not capable of adaptation. Running the river
9 primarily for barges is an insult to the people and
10 communities along the river who expect from the
11 Army Corps more recreation, more relationship to
12 the river, more habitat for the creatures we share
13 this river with.
14 The United States is attempting to be a
15 world leader. Can we lead Brazil, Indonesia or any
16 country in efforts to protect their species and
17 habitats if we go on about our business as if our
18 species had no value? Let's be witnesses to our
19 knowledge and respect for fellow creatures by
20 adopting a new master manual that relies on
21 adaptive management.
22 Maybe you can look at the death of an
23 entire species calmly, but I am sick at heart that
24 one of God's beautiful creatures disappears from
25 the earth. We may demand scientific certainty and

Nav 30

guaranteed economic development, but God's wild wisdom puts ours in perspective.

Read the Book of Job: Is it by your wisdom that the hawk soars and spreads its wings toward the south? Is it at your command that the eagle mounts up and makes his nest on high?

Mankind may be able to wipe creatures from the face of the earth, but we don't have the skill to bring them back once they are gone. We cannot continue managing the river under the current water control plan. We ignore the natural creation at peril of our most basic values.

Other 6

MR. MOORE: Casey Davidson.

MR. DAVIDSON: Thank you very much for the opportunity to speak. My name is Casey Davidson. I'm a long-time resident of Vermillion, South Dakota. I don't have to go into how important the river has been to myself and my life. It has sustained me and kept me going through many years of hardship. The wildness of it, the beauty of it is unlike anything else in the world.

We have 50 years of experience of managing the river under the current plan. We have lakes that have not developed their full potential, that aren't operating for the benefit of the people

Other 7

around them. They're dry. They are not producing the wildlife that they are capable of doing.

Other 7

We have ditches downstream to support an industry that has never developed. When I talk to people about what they think about navigation and barge traffic, their response is that well, it keeps the railroads honest. And I find that hard to believe when so much of our corn anyway and grain goes by truck anymore.

Nav 18, 8

We currently reenacted the return of Lewis and Clark's White Grove. And out of a two-year expedition that they went, to think that there's only one 27-mile stretch of river that even comes close to approximating what they saw is sad.

Downstream from Sioux City, see, we're kind of spoiled in Vermillion because we have the sandbars, we have the opportunity to challenge ourselves on the river. I had the opportunity to guide these gentlemen through dangerous streams and meandering sandbars, and I had the opportunity to get stuck once too. But that's a challenge. That's something that you have to be able to measure yourself against. It's what wildness means.

Some of the gentlemen have talked about

the lakes being too shallow or the current being too fast downstream. Well, we need the shallow water and we do need the slower moving currents.

Our 50 years of experience has brought some species to the brink of extinction, it's maintained a status quo that has never been economically proved to be viable. And I strongly urge the Corps to consider changing the way in which it manages the river. The flexible flow, our new understanding and science should be incorporated into the day to day management. We have the tools now to understand and to have tremendous impact on the flow of the river. And I urge the Corps to read the information that we have, the science that has evolved over 50 years. Thank you.

Other A,22

MR. MOORE: John Davidson.

MR. DAVIDSON: Thank you. I'm John Davidson, a resident of rural Vermillion, South Dakota, and I'm here to speak, to offer general comments in support of proposals that will provide the maximum benefit to the wildlife resource on the river. I have spent 30 years enjoying the river, being on the river and observing the wildlife.

I want to thank the Corps for holding

these hearings. In the last week or so I've been visiting the revised EIS documents in my local library, and I've become keenly aware of the enormous human and technical resources that the Corps has brought to bear in pursuit of a solution to this issue of how to revive the flows of the river. And I think the Corps is entitled to a great deal of credit.

The question I would ask or the theme that I would present is whether in the times in which we live it is possible for the Missouri River development alone among human institutions to be immune to change. If there is one theme of the times in which we live it is that we prosper. In order to prosper and to be secure, we have to adapt to changing circumstances.

And I reflect upon the enormous changes that have occurred since the Flood Control Act of 1944 was adopted. Consider when we think of river transportation that since that time the St. Lawrence Seaway has been constructed and opened. The interstate highway system, not even contemplated at the time the Flood Control Act was enacted, has been constructed. Agriculture which the river was intended to serve has been

Nav 31, 32

1 consolidated and industrialized. It is no longer
2 the economic entity that it was in 1944. It is an
3 industrialized industry fully capable of asserting
4 its own interests. Railroads have invested
5 heavily. As I drove down here tonight I passed a
6 brand new grain elevator, and beside it was a unit
7 train being filled to the hilt with corn. It's
8 quite clear at least from where I sit in the upper
9 basin that our commodity crops are moving to market
10 on trains, not on barges.
11 A great wildlife industry and recreation
12 industry has evolved in the upper basin. Other
13 changes, Indian tribes virtually ignored in 1943
14 have become viable political institutions capable
15 of representing their own interests.
16 Commercial barge traffic has simply not
17 materialized as it was conceived in 1944.
18 The land east of the river in North and
19 South Dakota were not irrigated. It is important
20 for everyone to remember that the original Flood
21 Control Act projected irrigation of virtually all
22 the land on the east side of the river in the
23 Dakotas.
24 For those who enjoy the river waters in
25 the lower basin, consider how much water you would

WS 16

WS 79

1 have if all of that irrigation had been developed.
2 This is a change. It was something that didn't
3 happen. Other changes have occurred.
4 But we've learned from the river. We've
5 learned, for example, that the river needs to move
6 laterally. We've learned that the river needs to
7 be able to move sediment. But most importantly
8 we've learned that the river's natural flow cycle
9 and the river's wildlife, its flora and its fauna,
10 are the same thing. They cannot be separated. You
11 cannot have one without paying attention to the
12 other.
13 So in conclusion I would simply point out
14 that we live in a time of great change. The river
15 has been exposed to change. And the people seem to
16 want change. People value the river. People value
17 the river's wildlife. And people want the river to
18 be part of their life. And so I support the Corps
19 in its proposals for change and urge maximum
20 benefits for wildlife and wildlife protection.
21 Thank you.
22 MR. MOORE: Randy Asbury.
23 MR. ASBURY: Good evening. My name
24 is Randy Asbury and I'm the executive director of
25 the Coalition to Protect the Missouri River. This

Other A,7

1 coalition represents a diverse group of 26
2 agricultural, navigational, utility, industrial and
3 business-related entities all of which are or
4 represent Missouri River stakeholders.
5 We support responsible management of
6 Missouri River resources and the maintenance of
7 congressionally authorized purposes of the river,
8 including flood control and navigation. We also
9 support habitat restoration for endangered or
10 threatened species to the extent that it does not
11 jeopardize humans or their sources of livelihood.
12 Let me begin by saying that our coalition
13 members are dismayed that these hearings are
14 occurring at this time. I requested, as did
15 several members of Congress, the postponement of
16 these hearings until after January 1, 2002. This
17 postponement request was made on the grounds that
18 adequate time was not available to review, analyze
19 and respond to the full and final copy of RDEIS
20 material. The denial of this request has precluded
21 citizens, public officials and stakeholders the
22 opportunity to familiarize themselves with the
23 effects of the alternatives, therefore, diminishing
24 the value of these hearings.
25 It is equally inconsistent with NEPA that

Other 26

1 the Corps of Engineers has provided a formal public
2 hearing without providing the public with access to
3 the technical hydrology related to impacts on the
4 Mississippi River at least 15 days prior to the
5 public hearing.
6 Today is October 11th and we are asked to
7 present credible commentary on documentation that
8 our state received today. This statement is to
9 serve notice that our due process has been
10 abridged. Rather than wait until all the
11 documentation relevant to these alternatives be
12 made to the public, the Corps of Engineers has
13 rushed the process to meet an arbitrary determined
14 deadline.
15 A federal agency employee recently told me
16 that the social and economic impacts of river
17 management changes are meaningless to their agency.
18 He went on to state that scientific data would be
19 the only criteria taken into account by his agency
20 in river flow management recommendations. That
21 sounds like a noble plan until a closer look is
22 taken at the scientific process the Fish and
23 Wildlife Service used to arrive at the theories
24 proposed in the alternatives. Theoretical jargon
25 will not mean much to the stakeholder when he has

Other 2, 220

to face the harsh realities of theory gone awry creating economic havoc for his family's livelihood.

It was for these scientific shortcomings that our coalition filed a 60-day notice to bring citizen suit against the United States Fish and Wildlife Service. We assert that the Fish and Wildlife Service failed to consider the best scientific and commercial data available before implicitly designating critical habitat in the biological opinion. The failure to consider economic or other relevant impacts on flood control or navigation violates the Endangered Species Act and will impose significant burdens on members of our coalition.

Given these and other shortcomings, our coalition is forced to support the current water control plan as the only feasible alternative proposed. It is impossible for our group to support any alternative that proposes a flow regime that asks Missouri to take a 3.3 to 4.4 foot spring rise and a negative 1.3 to 3 foot summer flow reduction along with higher reservoir levels.

FC 6

The summary also indicates negative effects for inland drainage and navigation. In

fact, Gavins Point releases are shown to negatively impact navigation 32 to 86 percent more than the current water control plan. However, this statistical impact belies the real impact, which is the cessation of Missouri River navigation. Put in statistical terms, 100 percent reduction.

Nav 12, 30

The effect of such negative navigation impacts on the Missouri can certainly roll over to the Mississippi bottleneck reach and cause major disruption in Mississippi River commerce.

Miss 4

We also question the effects of flow changes in the Corps' flood control and water supply analysis. I find it difficult to believe an extra 4.5 foot spring rise won't increase the risk of flooding any significant amount. I find it just as difficult to consider that utilities and municipal wastewater operations won't experience water quality standard problems created by discharges into a lower flowing river.

WS 11
WQ 2
MoPower 1
FC 4

I'm also greatly concerned with the broadly written wording of the RDEIS summary that states that spring and summer Gavins Point releases "would be adjusted if monitoring and data analysis indicate this measure is necessary for the species." In other words, I must assume the

Other 3

maximum spring rise and summer drawdown will occur due to adaptive management. The far-reaching authority of adaptive management on flow adjustments is unacceptable.

I also remind you that congressional actions are clear, there is little support for a spring rise, and all congressionally mandated purposes of the river must be maintained. Thank you for this time.

Other 7

MR. MOORE: Chad Smith.

MR. SMITH: I thank Colonel Ubbelohde, I appreciate the opportunity. My name is Chad Smith, I represent a river conservation organization called American Rivers. I am based in Lincoln, Nebraska. I'm a native of Nebraska.

I thought I would instead start with a quote from a native of Iowa, in fact a former resident of Sioux City, Iowa, J.N. Ding Darling. For those of you who don't remember, Ding Darling is the father of the federal duck stamp program. Also the first director of the U.S. Fish and Wildlife Service. And in an October 1944, excuse me, December 1944 article in Outdoor Life, Ding Darling was interviewed about the Missouri River Pick-Sloan plan and said that this plan was moving

forward without the slightest attention to biological consequences.

So all the way back to 1944 a Sioux City resident pointed out that there could be some problems that people needed to consider. And unfortunately Ding Darling's worst fears have come home to roost.

Speaking of the Fish and Wildlife Service, since he was the first director, we've heard tonight some criticisms of the Fish and Wildlife Service and the science they have pulled together and the biological opinions. I would challenge anyone in this room and challenge the Corps itself to come up with a more scientifically credible document that outlines the needs of the biology of the Missouri River. As a matter of fact, the significance of that document has been confirmed by the state of Iowa itself, the state of Iowa's Department of Natural Resources, which is part of the Missouri River natural resources committee. That committee wrote a letter to the Secretary of the Interior Gail Norton last May and called the biological opinion scientifically sound and biologically justified.

Other A

We as a conservation organization working

1 with folks throughout the basin are now supporting
2 the GP 2021 alternative in your document, what we
3 are calling the flexible flow alternative. The
4 reason we're supporting that is to stay consistent
5 with our message. Since the biological opinions
6 came out in support of the recommendations of the
7 Fish and Wildlife Service, because it exists as the
8 single-most scientifically credible document in the
9 recommendations for improving the biological health
10 of the Missouri River. Your own work, Colonel
11 Ubbelohde, and the team you have assembled, on this
12 revised EIS has come up with plenty of evidence to
13 support making those kinds of flow changes,
14 increased sandbar habitat, increased spawning cue
15 for fish on the river, increased physical habitat
16 for native fish, increased shallow water habitat.
17 Those are just a few of the examples.
18 Your team has also provided evidence to
19 show that we can make these flow changes without
20 unduly impacting other uses of the river. We have
21 already heard tonight that the Corps has said the
22 impact of flood control of all the flexible
23 alternatives included would be insignificant. It
24 would retain 99 percent of our current shore
25 benefits.

Other A, 204

EnSp 17

FC 9

1 Farmers who are having problems now will
2 continue to have problems, and we need to find a
3 way to help those folks, but we're not talking
4 about flooding thousands of acres. Just a couple
5 of examples.
6 Finally let me mention the notion of
7 increased recreation and tourism benefits. What
8 we're talking about down here is really scraps of a
9 river. We're talking about a ditch between Sioux
10 City and St. Louis and a few pieces of healthy
11 river above us. If you look at the upper
12 Mississippi River they're generating something like
13 1.2 billion dollars per year in annual economic
14 benefits. We could approach or surpass that on the
15 Missouri River if we took the time and made the
16 effort to make some changes.
17 After 12 years of analysis by your agency
18 it's time to do something. We need to take a
19 positive step forward. You have spent millions of
20 our taxpayer dollars doing a tremendous job of
21 analyzing impacts, analyzing benefits and laying
22 them out for us, and we urge you to use your own
23 information to make the obvious choice to sustain
24 the long term health of the Missouri River.
25 Thanks.

FC 27

Rec 10, 35

Other 7, 136

MR. MOORE: Doug Palmer.
MR. PALMER: I'll pass at this time. I'll submit written comments later.
MR. MOORE: Kevin Kuepper.
MR. KUEPPER: Good evening, Lieutenant Colonel. I'm Kevin Kuepper, general manager of Big Soo Terminal in Sioux City. We navigate on the Missouri River. We appreciate your being here tonight. We also appreciate the camaraderie that has developed between our company and our business and the Corps of Engineers, specifically the Omaha Division.

Siouxland depends on this river in terms of the its aesthetic value as a ditch, we hate to refer to it as a ditch, recreation, downstream recreation, our power plant cooling capabilities, and navigation. We will submit written comments once we have a chance and our team has had a chance to thoroughly digest the revised EIS. There is some scientific information that we want to take a closer look at.

Bottom line is we depend on this river to provide a transportation mode and an equal playing field for the agricultural livelihood of this area. As we become more competitive or have more

competition with South American countries and China who have increased their infrastructure and taken steps to become more competitive on a world market level, it is even more important that the United States does the same. We cannot support at this time any effort that would cause navigation to cease or disrupt the service at any time during the season, and we'll follow up with some comments later. Thank you.

Nav 56

MR. MOORE: Peter Carrels.
MR. CARRELS: Thank you for the opportunity to speak. My name is Peter Carrels. I live in Aberdeen, South Dakota. I make my living as a writer and an author writing principally about environmental history. About a year ago I was hired to work for American Rivers. My remarks do not represent American Rivers, my colleague Chad Smith can do that. I'm representing myself in this case.

On a dissatisfaction with the status quo is why we're here basically. It's why the Corps of Engineers has wrestled with the problem of managing the Missouri River, for the last 12 years they have wrestled with this problem. It takes courage and intelligence and planning to move from the status

Other 7

1 quo progressively.
2 And I want to recount a story that relates
3 to the Missouri River that addresses moving from
4 the status quo and it deals with my home state of
5 South Dakota. When the Pick-Sloan plan was
6 proposed and endorsed by Congress in 1944, South
7 Dakota was to be subjected to four large dams and
8 reservoirs. And the citizens of my state were
9 naturally reluctant, apprehensive about these large
10 reservoirs that would flood hundreds of thousands
11 of acres. The federal government proposed as a way
12 to make South Dakotans more amenable to this a
13 large irrigation project that Professor Davidson
14 alluded to earlier, 750,000 acres of land in my
15 state was proposed for irrigation under the Oahe
16 irrigation projects. And it made the people in our
17 state a little less reluctant to be flooded by
18 these four major dams. And so the dams were built.
19 And then it became time to develop the irrigation
20 project. Lo and behold it was discovered that of
21 the 750,000 acres that were proposed, thousands and
22 hundreds of thousands of these acres were not
23 irrigable.
24 So by the early 1970s we were talking
25 about a 200,000-acre project. When the farmers

1 started investigating those 200,000 acres, they
2 decided they didn't want the project. South
3 Dakota's political leaders had held on stubbornly
4 to that status quo, the Oahe irrigation project.
5 Citizens of the state turned against it. And
6 eventually the political leaders in our state made
7 the right decision. They decided that because the
8 citizens had decided that there were changes that
9 needed to be done, that the status quo had to
10 change as well. And in the early 1980s the Oahe
11 irrigation project which helped make South Dakotans
12 amenable to these four large dams and reservoirs
13 was dropped. The status quo was changed.
14 And so we've got to be ready for change.
15 Change is not always bad. The status quo is what
16 we're dissatisfied with here. And I appreciate
17 what the Corps of Engineers has done in the face of
18 great adversity to try to make changes and to try
19 to propose changes, and to deal with the many
20 complex issues that you have to deal with.
21 MR. MOORE: Tony Provost.
22 MR. PROVOST: Good evening,
23 everybody. My name is Tony Provost. I'm
24 authorized by the Omaha Tribal Council of the Omaha
25 Tribe of Nebraska and Iowa to speak on and comment

Other 7

1 towards this EIS. Since about the mid 1600s the
2 Omaha Tribe has been affiliated with the Missouri
3 River to sustain life and so forth, things of that
4 nature. But today I'm here to provide comments on
5 congratulating the Army Corps of Engineers, the
6 U.S. Fish and Wildlife Services, respective
7 government to government relations, giving the
8 tribes the opportunity to voice their opinions and
9 comments on this EIS, and also listening to our
10 concerns.
11 Through these things we foresee a lot of
12 cooperative agreements with both tribal agencies on
13 the government to government relations. Those will
14 come in future meetings with the Omaha Tribal
15 Council and the U.S. Army Corps of Engineers. So
16 my comments tonight are just thanking them for
17 respecting the government to government relations,
18 respecting the Omaha Tribe of Nebraska and Iowa's
19 comment now and in the future. Thank you.
20 MR. MOORE: Skip Meisner.
21 MR. MEISNER: Colonel and gentlemen,
22 and audience, my name is Skip Meisner. I've been
23 affiliated with Central for many years. We are a
24 group that has studied the Missouri River and
25 worked with the Corps of Engineers in a whole

Other 24

1 variety of ways. And currently we have a committee
2 that's made up of a variety of scientists and
3 landowners and other interests that have provided
4 detailed comments and recommendations on what the
5 Corps should be doing with operations of the
6 Missouri River, and once we are able to analyze the
7 RDEIS we will submit additional comments to you.
8 We should note that Pick-Sloan plan as
9 authorized by the Flood Control Act of 1944 ended
10 in a project that we have today. Had we designed
11 the project as a society we would not have designed
12 it in the same way, but it is there. And what our
13 job to do is to make the most of it.
14 Now from the Sioux City stretch in this
15 area, the Corps has managed the river very well.
16 Flood control, navigation, on and on, power
17 generation. We do have some problems. The
18 problems here mainly are caused by degradation, the
19 lowering of the streambed as well as the surface
20 level by over ten feet since 1954. We've had
21 massive losses of woodlands and wetlands. Changes
22 in your operation are not going to change very
23 much. We need to actually create the habitat that
24 we have lost. And we have given you and will
25 continue to give you detailed recommendations on

ErSd 18

WRH 6

how that could be accomplished.

We do note that the change is -- radical change for this area is not supported by many, many of us until it's proven that it will have the desired impact. We also have in great depth comments on some of the items in the draft RDEIS, and we will again give those to you. I think that any decision needs to be based on science and on the well-being of the users of the river, and I think we need to establish a good, solid monitoring program so that we can adequately address what any changes are in terms of the desired result. And we would suggest that we use the local scientists like at the University of South Dakota, Missouri River Institute and others in this endeavor, and we pledge our assistance to working out a solution, but we should never lose sight that the Pick-Sloan plan for its original purposes in the Sioux City area has worked very well.

Other 7, 119, 222

MR. MOORE: Clem Hurley.

MR. HURLEY: When I turned in that card you didn't say I have to talk, you said I might be able to. I have learned something tonight. I've learned why we have such a tough river level in Sioux City this year, because that

darn Wagner from McCook Lake has been stealing it all.

I would support the Corps of Engineers, the way they have been handling the river for a long, long time, very complex, and after the year we've had again, for me to say that probably means something to you.

The guy in this room a couple years ago told me that if the Corps of Engineers would be judged, it would be by the fact that they made everybody a little mad. I don't think I've talked to a person on earth in the last several years who has been happy with the Corps of Engineers. They must be doing a dam good job. But we shouldn't be talking to you I don't think. We should be talking to I guess -- we should talk to God, but you guys are probably a little closer to the source than I am. If we don't get some snow up north, all these conversations, your good counsel and your wise decisions go for naught.

We should probably also talk to the fish and game people and American Rivers people. I'm frustrated with them from year to year because they have the same chorus our President has had the last few days, you're either with us or you're against

us. And in this case it's not true. I'm an environmentalist. I think everybody in this room is. Whether you agree with Fish and Game and American Rivers or not, we all are environmentalists. We have different issues, we have different interests.

We heard someone challenge the Corps to argue with the scientific studies about the biological studies that were done on the river. And if that were the only issue I guess it would be meaningful, but there are many, many issues on the management of this river. They're not just biological, although we all are interested in that. The people we really ought to be talking to I think are the politicians up north. And as you can probably tell already, I'm not much of a politician. But I think they jumped on the environmental band wagon and vice versa. The upstream recreational interests are trying to increase their revenue to their state at the lower river's expense. And I really truly believe that. And I think that's what's given this whole movement legs. Someone mentioned that nothing's gone on for ten years. It's because it hasn't had legs. Now it does because the politicians believe in it,

Other 2,7

because of one main issue, and I'm going to go way off course with you here. I think eventually in the near future what they want to do is divert river water and sell it. And everybody's been very kind to everybody tonight. Maybe I'm not saying the right thing. You have given your opinion and I'm giving mine.

One thing I saw during the film that was presented early was that over the years the people's priorities have changed. I guess I'll leave you with a kind of rhetorical question. What proof other than a real vocal minority do you have that's true, that the public concerns as far as the change along the river? Thank you.

MR. MOORE: Donald Jorgenson.

MR. JORGENSON: Good night. I'm Don Jorgenson. I'm a stakeholder, I live on the Missouri River 14 miles upstream from here. I'd like to comment on a few things. There's been a lot of talk tonight about the barge industry. It's a lot more complicated than just the barge industry. And it's not about resistance to change. I think virtually every single one here is willing to change. I think everyone here is willing, is aware of the great change of habitat that the river

Other 7, 182

Other 7

1 system has sustained to make the present Missouri
2 River system. That's undeniable. Everyone
3 recognizes that there is a loss of population of
4 different wildlife. That's undeniable.
5 The question is what are we going to do
6 about it. That's the question. It isn't whether
7 we are going to change. It's whether we are
8 willing to do something.
9 It is my opinion that all of the plans
10 basically of changing the flow below Gavins Point
11 will fail. And why do I say that? Well, one thing
12 is the flooding of the habitat for the least turn
13 and piping plover every third year during the
14 mating season cannot be said other than it will be
15 discouraging.
16 Obviously it is supposedly designed to
17 scour the sandbars and make better habitat. And
18 there are probably more creative and better ways to
19 do this small acreage than by creating the spring
20 rise.
21 I'd also like to point out that existing
22 data does not support the supposition that was
23 given several times tonight that a spring rise is
24 going to provide a cue to the pallid sturgeon. As
25 you probably know in the lower reaches of the

WRH 7

EnSp 53

EnSp 17

EnSp 29

1 Missouri there is a spring rise every year. If
2 this was the cue, the predominant cue, then there
3 would be a large population of pallid and
4 shovelnose sturgeon there. There isn't. So
5 obviously the spring rise is not a cue per se.
6 Talking a little bit more about the pallid
7 sturgeon. The spawning habitat for the sturgeon is
8 nearly absent from the Missouri River. There was
9 an extensive study by R.K. Berg of the Montana
10 Department of Fish and Wildlife in 1981 that
11 stated -- it was probably the best and most
12 exhaustive study of pallid sturgeon. The bottom
13 line of that is for five years they measured the
14 population, they measured the temperature, they
15 measured the flow, the spawning of the sturgeon is
16 tied to temperature and it's basically independent
17 of the rise in the river. Another thing that comes
18 out that virtually all the experts on the pallid
19 sturgeon say that you need rock, gravel and cobble
20 as your stratum. Basically that substrate is not
21 available in any significant degree below Gavins
22 Point Dam. So it makes no difference if we make a
23 flood there. That's not going to be the cue that
24 makes the sturgeon spawn. Secondly, even if it was
25 the cue there is the wrong substrate, they're still

EnSp 17

EnSp 58

not going to be. It is also observed by many biologists that the major reproduction of the pallid sturgeon and the shovelnose sturgeon is in the tributaries. The cue in the main stream has nothing to do with it.

There are many other things. One thing that kind of disturbed me tonight was, I live on the Missouri and I love it and I was told that I was living on a ditch. I guess I have no sensibilities.

There are so many negative environmental impacts that we talk about, and the largest one is degradation. Also there's impacts for summer flow. Summer flow is going to lower the river level and cut off many of the chutes that are connected. So we're going to have less connectivity. It's also going to lower the water levels in the aquifers adjacent to the Missouri at the same time, and this is going to result in higher pumping costs. It's also going to result in the wetlands being there. ErSd 18

So I see my time is up. I'd like to just sum up. It's not about change. There's some serious environmental impacts that have to be considered better, and let's hope that we can all agree on some sort of compromise to do better.

Thank you.

MR. MOORE: Mark Versch.

MR. VERSCH: My name is Mark Versch, and I'm representing the Winnebago Tribe of Nebraska, although I'd like to have it made known that this is not a formal statement from the council. I just wanted to mention that the tribe does not really have a preferred flow regime that they endorse, but it is important to note that the Tribe does have a number of aspirations for properties they have along the river. There are several projects that the Tribe is working on. And recently they have shared some of these ideas with the Corps. And we've enjoyed receiving input from a number of the staff and they have been very helpful, and we simply want to mention that we look forward to that in the future as these additional plans come to pass. Thank you very much. Tribal 18, 23

MR. MOORE: Brian Lerohl.

MR. LEROHL: My name is Brian Lerohl, and I see this as a competition between CWCP and, oh, like GP 1528, for instance. Most of the speakers tonight haven't voiced a specific concern for a specific plan. A few did.

My interests in the Missouri are mostly

APPENDIX D, COMMENTS AND RESPONSES

1 boating on the natural part of the river and
2 hydroelectric power, because I'm a hydroelectric
3 power consumer. Missouri and other downstream
4 states receive massive benefits from Missouri River
5 levees and the numerous dams to benefit navigation
6 on the Mississippi River. Also channelization of
7 the Missouri River through the entire state, with
8 revetments and the wing dams and so forth on almost
9 every linear mile.
10 There's already been absolutely massive
11 amounts of money spent, federal money spent that
12 benefits the state of Missouri already. I noted, I
13 heard a comment earlier that the CWCP benefited
14 hydropower, but it's actually the least beneficial
15 to hydropower.
16 The plan that I support is GP 1528, which
17 is the one that's most beneficial to hydropower.
18 It seems to be a good compromise too because it's
19 fairly beneficial to quite a few other things,
20 including environmental things, with the exception
21 of like the pallid sturgeon. In the case of fish,
22 I guess the pallid sturgeon's loss is the walleye's
23 gain. You can't have it both ways.
24 The very fact that the dams were built in
25 the first place meant that there were going to be

HPower 16, 18

HPower 22

EnSp 25

1 changes. And the only way probably that we could
2 ever maintain the populations of pallid sturgeons
3 would have been if the dams had never been built in
4 the first place. Now that they're here I guess we
5 have to do the best we can with them.
6 Sedimentation was not covered too much.
7 And I do not know which plan would affect
8 sedimentation the most in either the natural river
9 or the lakes. So I guess I can't comment on that
10 either way.
11 They say that barge traffic is actually a
12 duplicate resource, because if we didn't have barge
13 traffic the railroads would pick up the slack.
14 Supposedly barge traffic is slightly more
15 efficient, but it's not a major problem if the
16 railroads carried more of the traffic.
17 Regarding flood control, the downstream
18 states have already received huge benefits from
19 flood control, and the minor changes that would
20 occur if we adapted a program like GP 1528 I'd say
21 are a small loss compared to the benefits that
22 they're already receiving, so I don't think they
23 should feel too badly about that.
24 So to sum it up, I would say that the best
25 compromise to provide the most advantages to the

EnSp 28

ErSd 19

Nav 6, 7, 8, 23

FC 4

most people in this region would probably be GP 1528 as I understand it. Thank you.

Other 7

MR. MOORE: Sally Puttmann.

MS. PUTTMANN: Good evening. I would just like to say that my name is Sally Puttmann, and my tenant and I operate a diversified crop and livestock operation near Kingsley, Iowa, which is 25 miles east of Sioux City here in Woodbury County. And I also served as a district director for the board of directors for the Iowa Farm Bureau Federation. And I along with many producers along the Missouri River have participated in meetings and educational sessions over the last year to discuss options on management of the Missouri River.

The Missouri River is an important thing to Iowans and particularly to the farmers, and for many reasons. First, farmers are concerned about inland drainage and the impact it has along the river and behind the levees.

IntD 8

Farm Bureau has analyzed the potential impact of increased flows of the Missouri River on the economies of these counties and the numbers are astounding. Over 130,000 acres may see production losses if the flow levels are increased. This

could cost the farms in the region, and when I talk a region I'm talking about five counties from Fremont County in the very southwest corner to Monona County just south of Sioux City, and some acres in this county as well. This could cost the farmers in the region 13 million dollars. This translates into a particular economic hit to the gross regional product of five Iowa counties totaling 21 million dollars in the first year alone. And I say the first year, because if a region loses 21 million dollars in the first year from a high water loss on land, we cannot make that up, and so it snowballs, it has a snowballing effect as the years go by because there is not that much profit in agriculture that you can make up that loss which has occurred in one year's time and the next year.

GW 14

Farmers are also concerned about the potential impact on navigation of the Mississippi River. Now we've heard a lot tonight about the navigation on the Missouri, but you want to remember that the Missouri River provides almost more than half of the flow of the Mississippi River. And the Mississippi River is an important route to access international markets for our

Nav 59

Miss 4

1 commodities. And it isn't just our commodities.
2 It's things that come up the river that we need.
3 You can drive down almost any road in Iowa and
4 imagine the impact of what it would cost per acre
5 if we limited our abilities there in the
6 commodities markets.
7 Finally, Iowans are concerned about
8 proposed changes to flows in the Missouri River
9 because of the impact it may have on power
10 generation. According to the Iowa DNR, 40 percent
11 of Iowa's generating capacity comes from the
12 Missouri River. And low flows during times of high
13 electric usage will threaten power companies'
14 ability to deliver a reliable supply of power and
15 in the end the consumers pay the cost.
16 I have several concerns with the proposed
17 management alternatives. And before I outline
18 these I just want to say that Congress has clearly
19 stated its interest in the management of the
20 Missouri River over the past several years. It's
21 on record in support of a balanced approach that
22 does not make winners or losers in the Missouri
23 River basin. The Farm Bureau is committed to a
24 balanced management approach that addresses the
25 multiple uses of the Missouri River and finds

MoPower 1, 3

Other 7

1 workable solutions for endangered species as well
2 as for producers and anyone else who enjoys the
3 river.
4 All but one of the proposed options in the
5 river plan includes some form of spring rise. A
6 spring rise in May to the middle of June will not
7 allow producers to plant corn. That ground will
8 not dry out until July 1 or even later. And that
9 means you just plant soybeans. And if you can't
10 get your soybeans in in a timely fashion, only the
11 lower counties in Iowa could harvest those without
12 worrying that they would be caught by frost.
13 There is so much that needs to be said on
14 this subject, and there has been a lot said
15 already, but I think that we have to have a
16 balanced approach and I think there can be winners
17 for all of us in this approach, and we all have to
18 work together. And I thank you for allowing us to
19 come tonight.
20 MR. MOORE: David Leach.
21 MR. LEACH: My name is David Leach.
22 I'm the treasurer of the Iowa Corn Growers
23 Association, a commodity organization that
24 represents 6,500 corn growers across Iowa.
25 I also farm and own ground along the

FC 28

1 Missouri River in Mills County. Let me say at the
2 onset that I'm not an industry, not a corporation,
3 but rather just a farmer, someone that supports a
4 family and a community.
5 Iowans should be concerned when the debate
6 over the Missouri River is characterized as a
7 simple problem, when the simple solution of one of
8 these five plans is supposed to save the fish and
9 the two birds.
10 Proposals to recreate the Missouri with
11 the spring rise and split navigation season will do
12 much more than just halt barge traffic. The spring
13 rise and increased risk of spring flooding, even in
14 the minutest amount affects my farm, my neighbors'
15 and my friends'. Potentially thousands of low
16 lying acres would be saturated, delaying or denying
17 the farmers the opportunity to plant, especially
18 taking fertile land out of production. This would
19 devastate farmers if the farm economy were strong.
20 Today when we are struggling to stay in business, a
21 spring rise would force many of us off the land,
22 and that's devastating news for western Iowa's
23 small towns.
24 As to the size, the continued viability of
25 Iowa's eight billion of agricultural economy is a

Other 182

FC 8
IntD 8
GW 7

1 small price to pay to try to recreate the Missouri
2 River of yesterday, of yesteryear.
3 If it means bolstering the recreational
4 industry of neighboring states, the damage wouldn't
5 be limited just to agriculture or just western
6 Iowa. Otherwise the Missouri River levels would
7 also mean increased stress on our roadway system.
8 If you have to haul all the grain that currently
9 travels on the Missouri in semis it would take
10 14,000 semis to carry the load. That doesn't even
11 consider the amount of materials that would come
12 the other direction, salt, fertilizer. I think it
13 was like three dollars an acre just for my
14 fertilizer cost.
15 And it also doesn't include the fact that
16 if you do take transportation off the river, the
17 railroad industry has no competition and therefore
18 could raise its rates. We see that on the
19 Mississippi River sometimes when the Mississippi
20 River closes that rail rates go up quite a few
21 cents, thereby impacting my farm prices.
22 Lower levels in the summer also mean
23 hydroelectric power plants can't produce as much
24 energy, thereby forcing countless Iowa communities
25 to look elsewhere for their already overburdened

Nav 23

Nav 8, 7

HPower 1, 3

system.

Perhaps the most appropriate question is should the Corps support the state's tourism industry at the expense of long-term viability of Iowa's economy? Other 23

Simple solutions to recreate the Missouri will cause complex problems for everyone in Iowa. So as a farmer and a member of the Iowa Corn Growers Association, we do not support any plan that has increased spring flows or would also split the navigation season. Thank you. Other 7, 48

MR. MOORE: James Farnik.

MR. FARNIK: Good evening, sir, thank you for this time. I am here to represent myself. My name is Jim Farnik. I'm from Creighton, Nebraska. My wife and I own and operate a small retail and repair business. We rent a lot and own a cabin located on the Nebraska side of the Missouri River one mile above the Bon Homme, South Dakota, county line. We also have a piece of property that borders the Niobrara River ten miles above the mouth in Knox County that is being inundated by purple loosestrife, cattails, sediment, high groundwater.

I submitted a seven-page opinion to the

Corps of Engineers of the 22-page summary preliminary revised draft environmental impact statement released in August of 1998 for public comment.

If there was ever a need for concern, the 70-mile reach between Fort Randall and Gavins Point Dam is the beneficiary of four million ton of sediment annually, with a total since closer of about 200 million ton over the past 46 years. It has destroyed over 20 miles of old Missouri River floodplain along Knox County, and about that much on the South Dakota side as well. ErSd 15

Statements printed in the final General Management Plan, page 77, for the Missouri National Recreational River, South Dakota, Nebraska 59-mile segment states that 76 percent of the Missouri River within the tern's range is channelized or impounded, leaving 24 percent of the habitat altered due to changes in water temperature and flow caused by dam operations. EnSp 28

As time goes by it is going to become more difficult to achieve project purposes and also deliver for this tern, plover and sturgeon. It is as if these species have no other alternative to nest or spawn other than within this 24 percent of

what has been designated by river watchers as one of America's most endangered rivers.

It seems unnecessary to pursue an agenda in an environment that seems to have so much inconsistency, so much instability and so much uncertainty. Disrupting business interests, barge traffic, agriculture, recreation and other interests with any of these alternatives should not even be an option. [Other 3,6,10]

Summer flows that get down to 25 and 21,000 cubic foot per second below Gavins Point Dam will be a disaster for many resources. Accesses, recreation and fishing, et cetera, below Fort Randall Dam will be dramatically affected because Fort Randall releases will be lower than that. [Rec 4,6]

Massive sandbars exposed during the warm weather will begin to establish growth, and blowing sand in winter and summer are stopped in these growth areas. Clean nesting bars across from the Bon Homme County line that were roped off for nesting birds in 1998 have three-foot cottonwood trees growing on them today. [EnSp 41]

Sandbar growth is establishing itself for miles above that area. A river that becomes full of islands is not a healthy river.

It becomes more difficult to be positive, cooperative and participate when the agenda is in your face with the law, the acts, and the species that seem to intimidate rather than find common ground for all of us to stand on. Even though I will do no harm to these species I find it more difficult to appreciate them. On all the occasions whether it deals with designated river management plans, recreation, personal water craft or altering the flows, we must first swallow this bird or else have him rammed down our throats until we understand that he rules the roost. [EnSp 3]

Lately it is difficult to determine who the true administrators of this water control project are. Is it the Corps of Engineers, is it National Park Service, is it the U.S. Fish and Wildlife Service, powerful organizations, other interests, or is it this bird who leads the parade? [Legal 2]

The National Environmental Policy Act and Endangered Species Act, along with other acts administered by Congress, have in my opinion tied the hands of the Corps of Engineers as well as other interests. This agency of engineers is supposed to have jurisdiction by law on the Missouri River. [Legal 2]

1 The greatest elements of destruction
2 affecting this water control project and all of its
3 resources and its species is sediment, high
4 groundwater and purple loosestrife.
5 Based on the figures taken from the
6 59-mile segment final general management plan for
7 the piping plover, least tern and pallid sturgeon,
8 these species are hardly on the brink of
9 extinction.
10 The adaptive management strategy to alter
11 the flow pattern from Gavins Point Dam every three
12 years to monitor change and unravel this scientific
13 uncertainty is going to require some long-term
14 testing to establish any kind of consistency to
15 facilitate a management approach.
16 In order shape an adaptive management
17 strategy for the Missouri River basin, the Agency
18 Coordination Team, the Missouri River Basin
19 Association and the National Academy of Sciences,
20 U.S. Fish and Wildlife Service and others will need
21 to include the sediment and problems associated
22 with it in the future. Failing to do so will
23 result in management strategies without the ability
24 to adapt.
25 Let us not burden other interests along

ErSd 19

EnSp 28

Other 10, 119

1 this river with long-term monitoring and evaluation
2 for the sake of short-term results while ignoring
3 the long-term consequences to this water control
4 project.
5 I hope for the sake of all interests a
6 sound decision can be established based on facts
7 and reality. The alternatives listed in the latest
8 30-page summary or those in the 1998 22-page
9 summary will have no better or greater positive
10 impact upon the rivers and species between the
11 70-mile reach than the present current water
12 control plan that's in place today. Thank you.
13 MR. MOORE: Kyle Harrison.
14 MR. HARRISON: My name is Kyle
15 Harrison, and I'm representing Lafarge North
16 America this evening, a worldwide leader in
17 construction materials. I'm the manager of the
18 Omaha cement terminal. Lafarge is strongly
19 committed to providing high quality products and
20 safeguarding our environment.
21 River transportation has been a vital link
22 in our supply chain and the most efficient,
23 environmentally friendly form of transportation
24 that we can employ in our midwest and west central
25 regions.

Other 7,22

Nav 74, 23

Lafarge North America operates a cement manufacturing facility at Sugar Creek, Missouri. From our plant we have barged cement upstream to Omaha for almost 36 years. The river has been a vital supply line for us. We are currently increasing the production capacity of our Sugar Creek plant from approximately 500,000 tons annually to over 900,000 tons in order to meet the strong consumer demand for Portland cement in the Kansas City and Omaha areas. We need to get our products to Omaha, and river transportation is the best way to do it. Our manufacturing processes also require a variety of bulk raw materials and fuel: Clay, slag, clinker, gypsum and coal to name a few. Lafarge currently transports approximately 350,000 tons of raw materials into our plant at Sugar Creek, and would like to increase this amount. These materials are transported by barge in an efficient and environmentally friendly manner. River transit also serves to keep rail and truck transportation rates more competitive, and that is good for everybody.

Lafarge North America has recently invested over $300,000 in the barges used to transport cement to Omaha. Lafarge North America

would like to invest more capital funds in the barges, unloading and loading facilities located along the Missouri River.

The Army Corps of Engineers' activities directly impacts these types of capital expenditures. It is extremely difficult to justify and to commit capital dollars to a supply chain that has a questionable future.

Nav 79

Utilizing the current master water control manual allows for suitable time in the navigation season to ship enough tons of cement to meet the consumer demand. Barging materials is the most cost effective way to move products. The number of miles one ton can be carried per gallon of fuel is 514 miles for barges, 59 miles for trucks and 202 miles by rail car. It takes approximately 160 trucks or 40 rail cars to move the tonnage that we get on just two barges. Trucking equal amounts of material consumes three to four times more fuel than if barged. Railing material consumes twice as much fuel. The cost savings from using the navigable waterways are passed on to the public through lower cost products used to build our cities' and towns' infrastructures, allowing for safer roads and bridges at a lower cost for

Nav 8

Nav 23

taxpayers. What's better for America? More trucks congesting roads, airborne emissions, and consuming more fuels?

MR. MOORE: Nancy Carlsen.

MS. CARLSEN: Thank you for the opportunity to comment on the draft environmental impact statement for the master water control manual. I appreciate your years of study and your attempt to manage the river with sensitivity to a wide variety of issues and concerns.

And I would like to thank the Fish and Wildlife Service for its biological opinion.

My name is Nancy Carlsen and I live in Vermillion, South Dakota. I am a fifth generation Clay and Union County resident with a BA from the University of South Dakota and a master's from Purdue in 1970. I am an abstracter and title examiner by profession.

I live along one of the two remaining stretches of the Missouri in South Dakota which would be recognized by the Arikira or by Lewis and Clark. It is a 59-mile stretch of semi-wild river bottom and riparian habitat. And I would like to speak to you today from the perspective of a lover of the remaining wildness of the Missouri River and

to focus on effects on the 59-mile stretch between Yankton and Ponca designated under the Wild and Scenic Rivers Act.

My family has a complex history with the river. A relative by marriage drowned around the turn of the last century and my grandparents feared the river. My sister was conceived during the time our dad drove truck while building the Fort Randall Dam, and he worked on land titles for the Corps of Engineers between the building of Oahe. My uncles lost many sections of ranch land to Lake Francis Case. I spent teenage summer days water skiing on Lewis and Clark and Lake Francis Case, and spent many college summer days on the white sands of the wild stretch near Elk Point. I have boated the entire Missouri in South Dakota up to Oahe. I was privileged to share a cabin for ten years near Ponderosa and, for the past three years, one near Goat Island. I canoe frequently. I have experienced the river and its wildlife in many seasons and places, and have come to understand that the river is a living entity.

But it was not until I worked on building a title plant in Union County several years ago that I really came to understand exactly what we

have done to the river in my lifetime. That understanding developed from trying to place property ownership information on maps.

In 1854 the southern boundary of the river was surveyed from the Nebraska side as the federal government continued the survey of public lands begun by Thomas Jefferson. Those surveys in Nebraska settled the lines of the sections, townships and ranges controlled by the 6th Principal Meridian. In the 1860s the federal government Land Office surveys were done from the South Dakota side, establishing the north meander line of the Missouri River along with the sections, townships and ranges controlled by the 5th Principal Meridian. The imaginary lines and monumented corners established by the Land Office surveys 150 years ago continue to this day to control the legal descriptions of land.

Of course the river didn't know that it was supposed to stay within man's legal descriptions. It continued to meander, consuming land at bends, braiding, creating sandbars and backwaters, and depositing land downriver as it went. For example, Mulberry Point is two and a half miles downriver from where it was 150 years

ago. Much land once in Nebraska is now in South Dakota and vice versa.

Huge quantities of land were moved by the Missouri as it went along its job of being a river, draining a vast part of North America's interior. Fertility of the lands was renewed by periodic overland flooding. And as the river settled back into its bed each time, things continued to change. Many sections of bottomland forest existed until recent times, as well as large areas of wetlands.

In addition to the original surveys, I have maps showing the location of various parts of the 59-mile stretch of the river from the 1880s, 1900s, 1940s, 1960s, '70s, '80s and '90s. When the maps are considered together, there emerges a clear picture of the river's natural rhythm and living movements during the 150 years since the beginning of non-Indian settlement.

Satellite photos and other aerials show the straightjacket that is channelization below Ponca and the impoundments above Gavins Point, further magnifying the magnificence of the remaining braiding and the natural movements of the 59-mile stretch.

Even in the last 50 years, controlled by

dams, bank stabilization and riprap, this reach of the river has continued to meander, gradually changing its bed, eroding some lands, accreting other lands and creating it's own still rich, though diminished, ecosystem.

I am continually amazed at the strength of the river's integrity and its ability to continue doing its job under its current restraints. But then it has thousands of years of experience of ecosystem creation.

We have less experience with the dams and channelization than the years I have been alive. What we have done can be modified as we learn the results of our actions.

I wish to speak for the alternative which will allow the closest resemblance to the river's natural flow. That must include the spring rise releases from Gavins Point, mimicking the natural drainage from snowmelt, and the lower summer flows conducive to sandbar exposure. The endangered species are harbingers of much larger ecosystem decline if we do not now change our management from one which takes into account only human benefits.

Other A

Further down the line, as siltation continues from the Niobrara, it would be good to

consider the breaching of Gavins Point Dam. More importantly, we must change our understanding to one in which this entity of the river has legal ownership rights in its own bed and floodplain. The idea of a national park begins to approach the philosophical considerations we must embrace in the 21st century. But for now, I would simply like to support alternative GP 2021 as the closest approximation of the river's natural flow, the waters to be used for ecosystem restoration as the river itself wills. Thank you.

Legal 3

Other A

MR. MOORE: U.S. Fish and Wildlife Service.

MR. COLLINS: Good evening. My name is Roger Collins, and I'm here this evening on behalf of the U.S. Fish and Wildlife Service out of Bismarck, North Dakota. Tonight I'd like to issue a brief statement on the revised draft environmental impact statement for the Missouri River master water control manual. I'm also here to listen to the comments in person from citizens on this important issue.

Other 204

The Service has primary authority for oversight of our nation's rarest animals under the Endangered Species Act.

The Missouri River is home to the endangered pallid sturgeon and least tern and the threatened piping plover. The decline of these species tells us that the river is not healthy for its native fish and wildlife, and that there needs to be a change in its management to restore the Missouri to a more naturally functioning river system.

Through our national wildlife refuges, national fish hatcheries, ecological services offices, fisheries management assistance offices, and law enforcement offices along the Missouri River, the Service evaluates proposed projects, raises and releases millions of fish and researches the biological well-being of the river to help conserve it as a valuable natural resource. A healthy river provides wildlife habitat, supports fishing, and makes boating an attractive recreational activity.

Congress committed the federal government to preventing extinctions by requiring federal agencies to use their authorities to conserve endangered and threatened species. The Fish and Wildlife Service helps other federal agencies ensure that actions that they take do not

jeopardize the continued existence of species such as the pallid sturgeon, least tern and piping plover.

During the last 12 years our agency has been working with the U.S. Army Corps of Engineers to modernize the management of the Missouri River to help stabilize and hopefully begin to increase and recover populations of these very rare animals. This new approach was described recently in a document called the Missouri River Biological Opinion, published in November 2000.

The biological opinion looks at the river as a system and outlines the status of these rare species, the effects of the current operation on them, and a reasonable and prudent alternative to the current operation that will not jeopardize their continued existence.

With the biological opinion as a base, we will continue to work with the Corps to evaluate the six alternatives for a new master manual presented in the revised draft environmental impact statement.

Our biological opinion is based on the best available science and includes nearly 500 scientific references. In addition, we've sought

1 out six respected scientists, big river
2 specialists, who confirmed the need to address flow
3 management as well as habitat restoration.
4 Further, the Missouri River Natural Resources
5 Committee, a group comprised of the state experts
6 on Missouri River management, endorses the science
7 in the opinion.
8 If you have read the RDEIS or summary
9 document, you understand that the GP alternatives
10 encompass the range of flows identified by the
11 Service as necessary below Gavins Point Dam to keep
12 the listed species from being jeopardized. Our
13 agency and the Corps also recognized the importance
14 of some flexibility in management that would enable
15 Missouri River managers to capitalize on existing
16 water conditions to meet endangered species
17 objectives without having to go through another
18 12-year process. We believe that the Corps has
19 done a good job of outlining the impacts, or lack
20 thereof, associated with implementing these changes
21 and that they will continue to evaluate impacts
22 associated with these changes.
23 Other management changes identified in the
24 biological opinion include a spring rise out of
25 Fort Peck Dam, an improved hatchery operation to

1 assist declining pallid sturgeon populations,
2 restoration of approximately 20 percent of the lost
3 aquatic habitat in the lowest one-third of the
4 river, intrasystem unbalancing of the three largest
5 reservoirs, and acceptance of an adaptive
6 management framework that would include improved
7 overall monitoring of the river.
8 In closing, the Service supports the
9 identified goal of the revised master manual, to
10 manage the river to serve the contemporary needs of
11 the Missouri River basin and nation.
12 These needs include taking steps to ensure
13 that threatened and endangered species are
14 protected while maintaining many other
15 socioeconomic benefits being provided by the
16 operation of the Missouri River dams. The Service
17 stands behind the science used in the biological
18 opinion and is confident that the operational
19 changes identified in the opinion, in addition to
20 subsequent discussions with the Corps, will ensure
21 that these rare species continue to be a part of
22 the Missouri River's living wildlife legacy.
23 The Missouri River is a tremendous river,
24 with a significant and revered heritage. Our
25 influence has altered the river greatly. Changes

are needed to modernize and restore health to the river, for the benefit of rare species and for people too. Thank you.

MR. MOORE: Cindy Kirkeby.

MS. KIRKEBY: I want to thank you for meeting with us today to hear our views. My name is Cindy Kirkeby. I am an attorney from Vermillion, South Dakota, the fifth generation of my family to call Clay County home. I have property on the Missouri and have floated and boated this great river since I was a child.

I am the daughter and granddaughter of dam builders. I am aware of the good intent of my father and my grandfather, and of all of the people who built these dams on the Missouri River. And I am aware of the good intent of all of you members of the Corps who are trying to manage the aftermath of their innocent exuberance.

But with all due respect, I cannot support any of the Corps' proposed alternatives. I can only support an alternative that seeks to set the river free.

Other 7

Nature wrote the book on this great river, and any master plan that we can devise cannot improve on nature's comprehensive plan.

We have tried to write our own book on the river. But in our master plan, in our limited understanding, we have narrowly focused on only six categories of concern, all centered exclusively upon ourselves: Flood control, human water supply, power generation, irrigation, navigation and recreation. We have drowned and ditched the river in our efforts to protect ourselves and to promote our own interests through these six categories.

Other 7, 178

For awhile this technique appeared to work, and it appeared that we gained benefits from our master plan. But as the years have gone by, it has become increasingly obvious that the biological integrity of this great system is eroding. Most native species are in decline and some are on the verge of extinction, primarily because we have altered the life flow of the river.

EnSp 8

We are beginning to learn that the natural flow is the life-sustaining and life-enhancing flow, and that the artificial flow is the life-depleting and, ultimately, life-threatening flow. If we begin to create a system where the artificial flow emulates to the greatest extent possible the natural flow, then we begin to reverse this destructive process. By recognizing and honoring

1 the elegance and inherent integrity of the natural
2 river, we can learn to use our creative energies in
3 a more constructive manner.
4 It's as though we took a beautiful human
5 body that functioned perfectly and we decided that
6 we could improve upon that body by altering the
7 blood flow in favor of the six organs that we had
8 identified as being important: The head, heart,
9 lungs, stomach, liver and intestines. Since we
10 didn't know enough about how the body worked to
11 consider the needs of any other parts of the body,
12 we simply disregarded the other parts. We
13 surgically implanted valves where valves had never
14 been to alter the blood's flow and to redirect it
15 to our favored organs. And we bypassed the major
16 arteries and implanted our own tubes to provide a
17 direct flow of blood to our favored organs. You
18 know, if we did something like this today people
19 would think we were crazy. People would
20 intuitively recognize that the health of the whole
21 system is dependent upon the health of each of its
22 parts, that the very existence of the head and the
23 heart are dependent upon the well-being of the
24 billions of cells and multiple glands and numerous
25 organs of the whole body. For the life of the

1 human being, these people would demand that we
2 return the flow to its natural flow.
3 I say this is what we have done to the
4 river, one of the great arteries of this continent.
5 We have identified six ways that we wanted the
6 river to serve our species, and we have imposed our
7 will relentlessly. We were given a variety and
8 diversity, a beautiful braided river with bows and
9 eddies, islands and sandbars, and we have created
10 monocultures of huge dams and deep ditches. We
11 were given abundance and we have created lack. We
12 were given a gracious, elegant and self-
13 perpetuating vitality, large enough for all of the
14 life that was suited for it, and we have created
15 troubled waters.
16 We built these dams and ditches with the
17 best of intentions in the desire to make life
18 better for ourselves and for our families.
19 But we forgot that we were a part of
20 nature. We forgot the great cooperative venture of
21 the earth, the marvelous interdependence of all
22 living things.
23 And so we have dominated and controlled
24 the river for 50 years for the benefit of only one
25 species, human beings, and for only six purposes:

Other A, 178

Other 222

1 Flood control, human water supply, power
2 generation, irrigation, navigation and recreation.
3 Now, thanks to the Endangered Species Act,
4 we are required by law to manage the river for the
5 benefit of four additional species, pallid
6 sturgeons, piping plovers, least terns and bald
7 eagles. But we have not yet recognized that we
8 must manage the river for only one purpose, that
9 is, for the well-being of all of its creatures.
10 As we grow in understanding, we grow in
11 our ability to include more and more others in our
12 calculations of who and what is important, and to
13 see the relevance to ourselves of the well-being of
14 others.
15 Nature knows her own, and knows the needs
16 of each and provides for each. We ought to know
17 and provide as well, if we presume to replace
18 nature's comprehensive knowing with our own. I
19 believe that when we start recognizing the needs of
20 the hundreds or perhaps thousands of species in the
21 river's complex community of interrelated life, we
22 will finally realize that the only way that we can
23 provide for us all is to set the river free.
24 I urge us to begin today to broaden our
25 understanding and our commitment to all of life and

Legal 4

1 to model our behavior, as well as we are able to,
2 to the splendid spontaneity and ancient order of
3 the natural world.
4 MR. MOORE: William Beacom.
5 MR. BEACOM: Colonel, I'm glad we did
6 a little better job of bringing the crowds out than
7 we did up in Montana. It's William Beacom, I live
8 right here in Sioux City about 24 blocks up north
9 of here.
10 The one thing that seems to be apparent
11 when we look through the RDEIS and the manuals and
12 all this stuff, we have a great use of acronyms and
13 figures and percentages. But I think the thing
14 that we all forget is that these are very anonymous
15 but these figures represent people. And when you
16 put a .07, that means that maybe seven people don't
17 get to farm their land that year, and it affects
18 them personally. You know, the people that are on
19 the side of the environmentalists if we want to
20 choose up sides seem quick to write off the
21 navigation, we'll just write it off, we'll draw a
22 line through that one, there's no people involved,
23 they're just the 1.76-3.
24 The navigation people are in a situation
25 where if you do any of the four plans besides the

Other A, 48

1 current water control plan or the MCP, it's a
2 question of whether we disappear or starve slowly.
3 And that's not a real good place to put ourselves.
4 The farmers, even though we've got nice
5 percentage points that says overall we don't affect
6 that many farmers, the ones you do affect you might
7 affect them critically, so that person may not be
8 able to make a living that year. So we don't want
9 to deal in numbers too much.
10 The fisheries, really when you look at the
11 overall picture they don't benefit that much. The
12 tribes get hit terribly hard. They get hit on
13 their land values. If you implement any of the
14 plans that have the up and downs in river, there
15 are cultural things that are affected by erosion
16 get banged. And then they're some of the poorest
17 people in the whole basin, and the increase in the
18 cost of electricity are going to hit them very,
19 very disproportionately to their ability to pay.
20 And we're in this situation now just like we always
21 are. We've got economic interests against
22 environmental interests, and nobody wants to give,
23 and solutions are out there.
24 The Fish and Wildlife Service was put into
25 a real box in this one. They had to come up with a

Nav 30,12

FC 27

Fish 3

Tribal 23, 44

1 biological opinion that essentially has to answer
2 the question how many beans are in a jar when they
3 don't know the size of the jar and they don't know
4 the size of the beans. And they come up with a
5 whole lot of nonsense. It reminds me of a fairy
6 tale that I read my grandkids called The Emperor's
7 New Clothes. Unless you're humble and pure of
8 heart you can't see the threads that they're made
9 out of. Unless you're a scientist you really can't
10 see what the scientists are putting out there for
11 biological opinions. And the reason you can't see
12 it is because it makes absolutely no common sense
13 from any standpoint.
14 I'll outline a couple of them. The birds,
15 the piping plover, every third year they get
16 flooded out. We're going to raise the water coming
17 through the dams to create sandbars and remove
18 vegetation. But you have to have sand to create
19 sandbars and the water coming through the dams is
20 hungry water, it doesn't have any sand. And every
21 third year we put water over these same sandbars
22 and flood out the piping plovers and the least
23 terns that arrive in April and May and have already
24 built their nests, so they have to renest.
25 We've got 80 percent more territory up

Other 220

EnSp 53

1 below Garrison which the birds can easily fly to if EnSp 28
2 we discourage them from landing at Gavins Point,
3 but, no, we can't do that, because then the fact
4 that we can leverage the flow out of Gavins Point
5 to gain control of the river by denying the lower
6 basin states their fair share of the water wouldn't
7 be feasible.
8 Now you do the same thing with the pallid EnSp 29
9 sturgeon. The pallid sturgeon, yes, we've got
10 ideal flows below Bloomville. We're going to
11 duplicate everything below Bloomville up here. But
12 the problem is they're not reproducing below
13 Bloomville either.
14 So what have we got to deal with? We've
15 got a lot of things to deal with that could be a EnSp 17
16 problem with the pallid sturgeon. We've got
17 temperature, as another gentleman outlined, we've
18 got the gravel substrata, and we have the flow
19 regime, and all of this could be a part of this
20 cuing process. We've inadvertently stumbled on to
21 something down at the Elizabeth Bottoms and we've
22 been able to reproduce some sturgeon down there.
23 And we were talking about it last night
24 with some of the Corps people and what we need to
25 do is we need to pave the bottom of the mitigation

1 slough so they've got a place to spawn. And then EnSp 58
2 they can stick their eggs to something, because
3 there's not any gravel between the Platte River and
4 here. And if we do that maybe we can put some
5 clothes on the emperor that everybody can see.
6 MR. MOORE: Jim Wallace.
7 MR. WALLACE: I am James W. Wallace.
8 I reside at 505 Ash, Lakeview Iowa, 51450. I
9 represent the combined chapters of Iowa Audubon.
10 Iowa Audubon supports the best possible
11 use of the Missouri and in Iowa tributaries to
12 support the best reproduction of all endangered
13 species and all other wildlife in the basin.
14 Fifty years of Corps management has
15 completely destroyed the river and all of its lower
16 tributaries on the western slope of Iowa. It is Other A, 7
17 time to modify and change the river back to some of
18 its historic streambeds in Iowa and the rest of the
19 basin. It is time to restore not the spring flood
20 but the historic June rise to the Missouri River
21 basin. The plan 2021 is likely the best plan for
22 the Missouri River basin as it now stands. Thank
23 you.
24 MR. MOORE: Norma Wilson.
25 MS. WILSON: I just have a brief

1 personal statement.
2 I'm Norma Wilson. I am a resident of
3 rural Vermillion and professor of English and
4 American Indian studies at the University of South
5 Dakota. My husband and I have lived in
6 southeastern South Dakota for more than 20 years.
7 Both of our children were born in South Dakota.
8 Our family has spent many wonderful afternoons
9 canoeing the Missouri and hiking along its banks.
10 We especially enjoy the birds and other animals who
11 live along the river.
12 My husband and I plan to remain in this
13 area, and we are concerned about the river habitat
14 that threatens the survival of certain species. If
15 we are going to assume the right to control our
16 natural environment, we are ethically bound to do
17 so responsibly. The operation of the dams, which
18 control the river's flow, must be changed so that
19 the river more closely follows its natural course.
20 Species like the pallid sturgeon and the piping
21 plover are endangered by the current dam operations
22 that are designed for barge traffic, which brings
23 few economic benefits, certainly too few benefits,
24 to balance the economic damage caused by unnatural
25 flows.

EnSp 8

Nav 30, 6, 8, 23

1 For the benefit of our children and
2 grandchildren and the future of our river, I urge
3 the Corps of Engineers to implement the important
4 change of increasing flows from Gavins Point Dam
5 and Fort Peck Dam in the spring and reducing Gavins
6 Point Dam's flows each summer. To do otherwise is
7 to ignore the environmental damage that has already
8 been caused and that will increase if we do
9 nothing. We must act now to protect the Missouri
10 River for human beings and other animal species.
11 I want to thank the Corps for accepting my
12 testimony and for your work to conserve the life
13 along the Missouri.
14 MR. MOORE: Dean Spader.
15 MR. SPADER: I am Dean Spader. I was
16 reared on a farm with 16 brothers and sisters in
17 Oldham, South Dakota. And we now have 80
18 grandchildren, and at last count 123 great
19 grandchildren. So if you're counting numbers I
20 assure that all of my family agree with what I am
21 going to say, so all total are somewhere around
22 223.
23 I say this partly because I recall in the
24 1950s as a young boy flying with my father who was
25 a flying farmer over the Missouri River down here

Other A, 188

and seeing the flooded land. In fact we still have some of the eight millimeter film bouncing out of the plane window of our family farm plane over the entire flooded area of the Missouri River.

Now in those days we thought that was a tragedy. As I view that film now I see it as a beautiful living river. And the opposite of that, I'm speaking more from my heart than any facts, because I support, I came here with a whole set of different intents as to what to say, but I found that most of the speakers, many of the speakers prior to me have said what I intended to say factually, and I support testimony of Jim Heisinger, Jim Redmond, Chad Smith and so on.

To me watching the film of the river flooding is a living river, and I like the analogy of a living river. And then to go downstream and see the river channelized is an ugly scene for me. And I understand that some people, the gentleman earlier disliked the idea of being told he was living on a ditch. I think it's even worse than that. I think if we were to ask the Missouri River, what is your experience, if it were a living river, I think the Missouri River would say you have put me in a straightjacket. And a river in a

Other 178, 182

straightjacket is no more beautiful than a human being in a straightjacket. And controlling the river excessively is like putting a human being in a straightjacket.

We have channelized the river. I think to some extent it is an ugly dead river right now. And so the options, the minimal options that the Corps has proposed to preserve the life of the river I think is a must. Otherwise the river dies. And 50 years from now, a hundred years from now, what will our children see from our airplanes, what will the river be, and what will the species in the river be? Thank you.

Other 8, 182

MR. MOORE: Dave Branerd.

THE HEARING OFFICER: Is there anyone else who wishes to testify?

MR. KUCERA: Yes, Colonel. My name is Ron Kucera, I serve as deputy director for policy for the Missouri Department of Natural Resources. I hadn't planned to testify this evening, but a couple things did come up.

One thing during your workshop that I'm very pleased that you're providing an opportunity for citizens to experience and then a couple of things during testimony this evening, I thought I

wanted to go on the record with.

At the workshop my staff and I were trying to find out whether or not tern and plover acreage was accounted for around the reservoirs, and two of your staff responded that there was not an effort to attempt to account for terns and plovers. We believe that's a serious oversight and that the estimate of 164 acres of habitat created could end up being a number that's in error. It could be some number that's significantly lower than that in the total plan, and we think you need to take a look at that.

EnSp 20

The other issue has to do with faulty logic applied to adaptive management, having to do with releases from the Gavins Point Dam. As one of the other speakers suggested, we already have significant spring rise on the lower Missouri River and on the Mississippi, and there's not a response from the pallid. So I think that needs to be taken into account too. That's all I have, Colonel. Thank you.

Other A

THE HEARING OFFICER: Are there any others who wish to testify?

In closing I would like to remind you that the hearing administrative record will be open

through 28 February for anyone wishing to submit written facts or electronic comments. Also if you want to be on our mailing list or receive a copy of this transcript you need to fill out one of the cards at the table available at the entrance.

If there are no further comments, this hearing is closed. Ladies and gentlemen, thank you for attending tonight and providing us with valuable information.

(Concluded, 9:50 p.m.)

* * *

REPORTER'S CERTIFICATE

I, Colin J. Campbell, Certified Shorthand Reporter, hereby certify that the foregoing was taken down by me in machine shorthand and was thereafter reduced to typewritten form; that the foregoing represents a true and complete transcript of the proceedings had in the foregoing matter.

I further certify that I am not attorney for or related to any of the parties hereto, and that I am not financially interested in this action.

To all of which I have affixed my signature this 22nd day of October 2001.

Colin J. Campbell

Colin J. Campbell, CSR
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Congress of the United States
House of Representatives
Washington, DC 20515–2504

September 27, 2001

Colonel David A. Fastabend
Commander and Division Engineer
Northwestern Division
U.S. Army Corps of Engineers
220 NW 8th Avenue
Portland, OR 97208-2870

re: Missouri River Master Manual RDEIS Comment Period

Dear Colonel Fastabend:

The Coalition to Protect the Missouri River has contacted my office to request a 90-day extension of the Missouri River Master Manual Revised Draft Environmental Impact Statement (RDEIS) public comment period and to request a postponement of public hearings until after January 1, 2002. I urge you to seriously consider this request.

It is my understanding that interested parties have yet to receive the full and final copies of the RDEIS from the Corps of Engineers. I believe it is a reasonable concern that stakeholders will not have enough time to analyze the documents and to prepare responses before the public hearings begin on October 9, 2001.

I urge you to give this request for a 90-day extension and for a postponement of the public hearings until next year every appropriate consideration. Thank you for your attention to this matter. With respect, I remain

Very truly yours,

Ike Skelton

IKE SKELTON
Member of Congress

IS:lb

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OCT 1 '01 9:46 FR U.S. CONGR TODD AKIN TO 16602732124 P.2

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Congress of the United States
House of Representatives
Washington, DC 20515

September 28, 2001

Colonel David A. Fastbend
Division Commander
U.S. Army Corps of Engineers
North Pacific Division
P.O. Box 2870
Portland, Oregon 97208

Dear Colonel Fastbend:

I am writing to request a 90-day extension of the Revised Draft Environmental Impact Statement (RDEIS) Public Comment Period for the Missouri River Master Manual Alternatives. In addition to this extension, I also ask that any public hearings on the RDEIS be postponed until after January 1, 2002.

Several stakeholder groups, most notably, the Coalition to Protect the Missouri River, have contacted my office to express concerns about the timing of RDEIS Public Comment Period. These groups have yet to receive a full and final copy of the RDEIS, and therefore, are concerned that they will not have adequate time to analyze all the information and prepare a sufficient response prior to the start of the public hearings. A full copy of the six alternatives in the RDEIS will most likely not be made available until the first week of October, only a few days before the public hearings are scheduled to begin.

The Coalition believes that a full and complete review of the six alternatives cannot be made in a period of one week or less. I strongly concur with the Coalition's assessment. The full RDEIS contains detailed models, data and recommendations that require a thorough analysis and review before a stakeholder can formulate an informed response.

Colonel Fastbend, I strongly urge you to grant this extension and subsequent postponement of the hearings until after January 1. It is only fair that citizens and stakeholders be allowed more than a few days to review the complex documents to which they are entitled to respond.

Sincerely,

W. Todd Akin

W. Todd Akin
Member of Congress

WTA:th

CC: Mr. Dominic Izzo
Principal Deputy Assistant-
Secretary of the Army(Civil Works)

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OCT. 10. 2001 9:24AM NO. 397 P. 1/1

CHRISTOPHER S. BOND
MISSOURI

United States Senate
WASHINGTON, DC 20510-2503

September 25, 2001

Colonel David A. Fastabend
Division Commander
North Pacific Division
U. S. Army Corps of Engineers
P.O. Box 2870
Portland, OR 97208-2870

Dear Colonel Fastabend:

Recently, the Coalition to Protect the Missouri River contacted my office to voice their concerns with the upcoming Public Comment Period on the Revised Draft Environmental Impact Statement (RDEIS). The Coalition is concerned that full copies of the six alternatives will not become available for their review and analysis until the week of October 1, 2001, just a week before the public hearings are scheduled to begin. In the absence of data, models and recommendations, citizens and public officials are precluded from having the opportunity to evaluate and develop informed responses to the RDEIS. I understand that it is a complex and challenging task for the Corps to finalize and distribute the massive sets of documents and delays of this nature are both foreseeable and understandable. However, since it is taking the Corps many months to prepare documents for the public comment period, in the name of fairness, citizens should be entitled certainly to more than a couple of short weeks to analyze the documents they are expected to comment on. Clearly, it diminishes the value of the hearings and workshops if people are not able to become familiar with the alternatives.

At this time, I request a 90 day extension of the Revised Draft Environmental Impact Statement Public Comment Period. and a postponement of the public hearings until after January 1, 2002.

Sincerely,

Christopher S. Bond
U.S. Senator

cc: Mr. Dominic Izzo
Principal Deputy Assistant Secretary
of the Army (Civil Works)

My name is Richard A. Spellman, 705 North 57th Ave., Omaha, Nebraska. Tele. No. 402 556 0697

I am submitting the following material into the record of this public hearing:

1. Letter to Rosemary Hargrave dated November 11, 2000

2. Letter to Mike George dated January 25, 2001

3. Letter to Ken Cooper dated August 29, 2001

These letters explain why the proposed "split-flow" regulation of the Missouri River will have tremendous adverse consequences effecting the 40 mile reach of the river below Fort Randall Dam. The damage to this area will be compounded because of the sediment build-up already in the area near Niobrara that will only be aggravated by the proposed lower summer flows.

The economic damage and adverse consequences to recreation in this area are fully discussed in these letters. The impact of the proposed "split-flow" to this area must be specifically addressed in the environmental impact statement. This is a unique and unchannalized reach of the river. The Missouri River below Fort Randall Dam to Niobrara is a federal designated recreation river and also a federal designated scenic river. It needs to be preserved. The "one size fits all" approach in the proposed "split-flow" regulation will have disastrous consequences to this area.

Finally, the proposed "split-flow" regulation will require damaging flood stage releases of 50-60 cfs from Fort Randall Dam in the late fall-early spring in those years when excess water storage in the up-river reservoirs has to be evacuated in order to have capacity for snow melt and spring rains.

Please read the enclosed material, and do not hesitate to call or write if you have any questions.

Richard A. Spellman

Richard A. Spellman

August 29, 2001

Mr. Ken Cooper
Deputy Omaha District Engineer
U.S. Army Corps of Engineers
106 So. 15th Street
Omaha, NE. 68102

Re: Missouri River/Niobrara River/Ponca Creek
Site Visit June 29, 2001

Dear Mr. Cooper:

As the Draft Master Manual Environmental Impact Statement ("EIS") and the Sedimentation Study involving the sediment build-up in the above area are about to be completed, I believe it is important to summarize the findings and the points of agreement made during the June 29th site visit.

First of all, I would like to thank you, Bill Mulligan, Mike George and Laura Timp for spending the entire day with Don Nelson, Nebraska Director for Senator Ben Nelson, Rayder Swanson, Supervisor, Knox County Board of Supervisors, and the others listed in the enclosed site visit agenda.

During the site visit, we addressed the issues affecting this area resulting from way the Missouri River has been operated in the past by the U.S. Army Corps of Engineers (the "Corps"), and the way the river is being proposed by the U.S. Fish and Wildlife Service (the "Service") to be operated by the Corps in the future. The first issue is the continuing build-up of sediment threatening the area. The second is the adverse consequences of the "split-flow" being proposed by the Service relating to endangered species. I am also enclosing a copy of a letter dated June 6, 2001, from Brigadier General Carl A. Strock to Senator Ben Nelson, where he commits to addressing these concerns.

Sediment Build-up.

The Ponca Creek and Niobrara River continue to deposit large quantities of sediment in the Missouri River. Unless addressed by a dredging maintenance program (which will also create more sandbars advantageous for the endangered species), the following adverse consequences will be inevitable: (i) Nebraska Highway 12 will be inundated and have to be reconstructed costing $27 million, (ii) more flowage easements will have to be acquired, particularly along Ponca Creek and nearby populated areas along the Missouri River, (iii) backwaters of Lewis and Clark Lake will continue to fill in with sediment reducing lake capacity, (iv) hydroelectric power generation at

Fort Randall Dam cannot be maximized without causing flooding (further aggravated if low summer flows are implemented if a "split-flow" operation) and (v) one of the most scenic and recreational reaches of the Missouri River (designated as such by federal law) will become a cattail marsh and inaccessible.

Dredging will fix the problem. We were told it's expensive, but it may be too expensive not to establish a dredging program. This is especially true when all of the factors and important priorities of Missouri River operation are evaluated (flood control, recreation, electric power generation, etc.). I have been told that years ago there was a dredge stationed in the area which was owned and operated by the Corps, but I have not verified this.

It is expected that the sedimentation study about to be completed will address many of these issues, although we were told that sediment deposition in the Missouri River from Ponca Creek may not be included in the study. A comprehensive analysis must include Ponca Creek, otherwise the Niobrara River sedimentation problem will be repeated. The Niobrara sediment problem has already caused the United States to pay millions of dollars to relocate the town of Niobrara and the Niobrara State Park, and also to acquire flowage easements over several thousand acres of ruined farm land, but only after denying liability and losing in litigation. The federal government has just completed another multi-million investment in this area by constructing Standing Bear Bridge over the Missouri River to facilitate much needed commercial opportunities and to enhance recreational activities. This time, the United States has the opportunity to fix the problem before it completely ruins this entire area and requires it to later pay for the damage.

The "Split-Flow" Proposal. The impact of the "split-flow" proposal on this area must be recognized and evaluated in the EIS, otherwise the study will be defective. As explained below and in the enclosed letter dated January 25, 2001, a "split-flow" in this area will be devastating.

This area is on the Missouri River below Fort Randall Dam and above Lewis and Clark Lake and Gavins Point Dam. The Service's Biological Opinion recommends the "split-flow" of the Missouri River to save the endangered least tern, piping plover and pallid sturgeon, but it only addresses the river below Gavins Point Dam. It does not even mention this area above Gavins Point Dam, even though the releases from Gavins Point Dam necessary to create the "split-flow" will be virtually the same releases as from Fort Randall Dam.

The reason the "split-flow" proposal results in nearly identical releases from Fort Randal Dam and Gavins Point Dam is because Lewis and Clark Lake is a relatively very small lake compared to the up-river reservoirs, and it has little storage capacity to accommodate appreciable differences in releases. Flows from Fort Randall Dam essentially flow right through this area and Gavins Point Dam with very little variation.

The "split-flow" proposal requires very low releases from Gavins Point Dam during the summer months, and this will require even lower releases from Fort Randall Dam. This is because the Ponca Creek and Niobrara River tributaries will add 2-4,000 c.f.s. to the flow in the Missouri River. In this area, the proposed low flows will destroy the recreational value of the Missouri River in the summer. Access to the river, fishing, boating and all other recreation activities will be dangerously unsafe if not impossible. Most of the businesses and the economy in this area are largely dependent on recreation and tourism, and the adverse effects of low flows during the summer will be devastating. This was the case earlier this year until water levels were raised after flooding down river subsided.

Another foreseeable consequence of the "split-flow" proposal is that releases in the fall may have to be at very high flood stages in this area. The low summer flows followed by navigational flows may necessitate flood stage releases from Fort Randall Dam in the fall before ice freezes the river in the winter. This is because the Missouri River Main Stem System must be evacuated to certain levels at the end of the year in order to have sufficient capacity reserved to impound the floodwaters from the next spring's projected snowmelt and rainfall. This potential adverse consequence must be addressed in the EIS.

Finally, this area is a reach of the Missouri River where all three of the endangered species, especially the least tern and piping plover, are doing well. Pallid sturgeon put into the river several years ago are still being tracked, and nobody knows whether the "split-flow" will trigger reproduction. The river is not channelized like it is below Sioux City. In this area, the river flows in its natural bank, and there are natural sandbars, backwaters and an abundance of habitat for wildlife. The proposed "split-flow" will disrupt spawning patterns of game fish, and the high-low fluctuations will jeopardize the remaining cottonwood trees, habitat for the eagle. This reach of the river is exactly what is desirable, and it achieves all the priorities of the current Missouri River operation plan. The proposed "split-flow" is intended for sections of the river below Gavins Point Dam, but it will absolutely without question have disastrous consequences in this area—as the saying goes, the "split-flow" will be like "throwing the baby out with the bathwater". It makes no sense to ruin one area to perhaps improve another area. The EIS must address all of these adverse consequences to this area if it is to be a complete analysis.

Conclusion: Brigadier General Strock promises in his letter to Senator Nelson that both of the sedimentation and "split-flow" issues will be addressed in two studies about to be completed. All of the citizens in the region (24 communities have adopted resolutions opposing the "split-flow" proposal) await fulfillment of this promise.

Please feel free to call and respond to this letter.

Very truly yours,

Richard A. Spellman

Richard A. Spellman
705 N 57th Ave.
Omaha, NE 68132
(402) 556-0697

cc: Senator Ben Nelson and Don Nelson
Senator Chuck Hagel
Congressman Tom Osborne
Congressman Doug Bereuter
Former Senator Bob Kerrey
Governor Mike Johanns
Rex Amack, Director, Nebraska Game and Parks Commission

Brigadier General Carl A. Strock
Rose Hargrave
Bill Mulligan
Mike George
Laura Timp

Agenda

June 29, 2001

Inspection Visit
Missouri River from Ponca Creek to Upper End of Lewis and Clark Lake

Participants: Lt. Col. Todd Skoog, Deputy Commander, District of Engineers for Civil Works
Ken Cooper, Deputy Omaha District Engineer
Bill Mulligan, Chief of Civil Works Project Management Branch
Laura Timp, Project Manager
Mike George, Project Manager

Don Nelson, State Director, Senator Ben Nelson

Rick and Mary Hurd, Lewis & Clark South Dakota-Nebraska Preservation Association

Rayder Swanson, Supervisor, Knox County Board of Supervisors

Jim Swenson, Eastern Regional Manager, Nebraska Game and Parks Commission
Tom Motacek, Superintendent, Niobrara State Park

Betty Swanson, Niobrara Historical Society

Owners, Blue Moon Resort, Lazy River Acres

Mel Hansen, Homeowner, Lazy River Acres
Rick Spellman, Homeowner, Lazy River Acres

11:00 - Introductions and Orientation, Lodge, Niobrara State Park

12:30 - Tour of Ponca Creek and Lazy River Acres (Lunch at Spellman Cottage)
Meeting with Owners of Blue Moon Resort

2:30 – Niobrara Historical Society & Town of Niobrara

3:30 – View from Standing Bear Bridge

4:00 - View of Backwaters of Lewis & Clark Lake, Springfield, S.D.

January 25, 2001

Hand Delivered
and
First Class Mail

Mr. Mike George
Project Manager
Missouri River Biological Opinion Implementation Plan
Omaha District
215 N. 17th Street
Omaha, Nebr. 68102

Re: Comment on the Draft Implementation Plan

Dear Mr. George:

This comment will explain the damage to property, the economy and the recreational uses of the Missouri River (MR) and surrounding communities in Nebraska and South Dakota located below Fort Randall Dam (FRD) to the Lewis and Clark Lake (LCL) if the Draft Implementation Plan (Plan) becomes effective as presently drafted.

In a nutshell, the high and sustained releases from FRD proposed in the Plan of 45,000 cfs - 50,000 cfs from May 1 through June 15 (which is 15,000 cfs – 20,000 greater than normal) will flood many agricultural and riverside communities, saturate areas not actually flooded by raising subsurface groundwater tables and causing damaging bank erosion. Then, dropping releases from FRD to 12,000 cfs – 15,000 cfs for 6 weeks into July will virtually destroy the MR in this area for recreational purposes by denying access from public and private docks and landings and by making it impossible for safe boating. Also, evacuating previously flooded areas will not only drain presently existing wetlands but also strand fish to die in ponds and water holes cut off from the MR. Finally, after several weeks of releases of 32,000 cfs to resume navigation below Gavins Point Dam (GPD), there will be some years when high releases of undeterminable magnitude will occur. This period of several weeks at the end of the year poses a huge threat of flooding in this area because there is virtually no time or flexibility left before the MR freezes in the winter to be able to release enough water from the large reservoirs up river from this area to accommodate greater than normal projected snow melt and rains coming into the MR watershed the next spring.

In summary, as fully discussed below, the U.S. Army Corps of Engineers (Corps) is not in a position to implement the Plan at the present time. The serious issues and damaging consequences affecting this area as described in this letter must first be addressed in writing and solutions identified. Then, there must be ample time for all of the stakeholders in this area to review the Corps' responses and proposed solutions, and to be able to ask questions at a public hearing to be held at a convenient location, after appropriate prior notice. The concerns of stakeholders must be taken into account in any final plan.

There is not one word of discussion in the Plan about how the proposed regulation described above will damage this area. This reach of the MR is designated as a scenic river under the Wild and Scenic Rivers Act and deserves special focus to retain its unique quality. There are wetlands, beautiful high limestone and chalk bluffs (noted several times in the Journals of Lewis and Clark), natural river banks, islands, and an abundance of wildlife in this area, including populations of the three endangered species that are the subject of the Biological Opinion (Biological Opinion) issued by the U.S. Fish and Wildlife Service (Service) on November 30, 2000.

The focus of the Biological Opinion is the MR below GPD where the endangered species are not doing very well in the channalized river. The only mention in the Biological Opinion to this area is on page 248 where feasible and available options to solve the problems are discussed (sediment transportation and head cutting at the mouths of the tributaries), and a "pilot study" in this area is recommended.

For some reason, Appendix I to the Draft Biological Opinion was not included in the final Biological Opinion. This Appendix I discussed segment 8 of the MR that is this area below FRD in part as follows:

"Human activities are prevalent in this reach including recreation, agriculture, bank stabilization projects, and housing developments. Recreational uses includes fishing, both from shore and boats, pleasure boating, jet skis, canoeing, swimming, and sunbathing. In the Niobrara Scenic River Designation Act of 1991 this 35 mile portion of the Missouri river (sic) was designated a National Recreation River.With this designation increased recration (sic) pressure on the reach is expected. The establishment of homes and the development of agricultural tracts along the river has led to increased demands for bank stabilization projects." This discussion also acknowledges that "(b)oth the least tern and the piping plover historically nested in this river reach, and this reach continues to be important to both species."

The adverse effects in this area if the Plan is implemented are well known by the Corps. In 1976, in Barnes v. United States, 538 F.2d 865 (1976), the United States was held liable by the Federal Claims Court for millions of dollars of flooding and related damages to agricultural land in this area, and Congress had to appropriate millions of dollars to relocate the town of Niobrara, Nebraska, and the Niobrara State Park to higher ground. The Plan proposes to release sustained high flows from FRD that will again cause similar damages to land and property in this area that are not presently being

threatened under the current Master Manual. To make matters worse, the Plan also adds weeks of extremely low flows and unpredictable year end potentially high flows, which both create a new set of adverse consequences.

The cause of the damage in this area is sedimentation. LCL is a relatively small reservoir that experts agree is silting in very rapidly. The sediment deposited at the headwaters of LCL in the MR by the Niobrara River (NR) and Ponca Creek (PC) has created deltas, which have reduced the channel carrying capacity of the MR and caused the flood damage experienced in this area that let to litigation and Congressional intervention in the 1970s.

The Corps has recently studied the sedimentation problem in this area (Final Report Missouri River Fort Randall Dam to Gavins Point Dam and Ponca Creek Aggradations Assessment June 1998). In a 1994 reconnaissance report contained in this study, the author clearly recommends dredging in this area should be considered because of the benefits of being able to have high releases from FRD (in the magnitude proposed in the Plan) that would not, with an open MR channel, cause additional damage. These benefits are listed in the report to include "full power generation, a delay in the decline in recreation benefits, reduction in the amount of flooded lands purchased and a reduction in the flooding of Highway 12."

The sedimentation problem is a real issue and needs to be addressed and solved. I tried to call attention of the Corps and the Service to this situation in my letter dated November 11, 2000 (copy attached), but I received no response. There is no reference to this problem, and hence no solutions discussed, in either in the Biological Opinion issued by the Service on November 30, 2000 or in the Plan issued on December 20, 2000.

The Missouri River Restoration Act of 2000, introduced by Senator Tom Daschle of South Dakota, was enacted to address all of the fundamental sedimentation problems affecting the MR and reservoirs in the system. This study should be completed before any plan to change the regulation of the MR is implemented.

Listed below in considerable detail are all of the adverse consequences that implementing the Plan will have in this area. Again, the Corps knows this situation exists and knows that work needs to be done to address the sedimentation problem in this area. The Corps continues to try to purchase flowage easements in the area instead of addressing the issue. The Corps' failure to fully discuss this situation in the Plan almost suggests the Corps is in denial, thinking that, if this problem is ignored, maybe it will go away, or perhaps the extent of the damages will not be so bad. Ignoring the problem and purchasing flowage easements are no solutions. Nevertheless, the Corps proposes to implement the Plan, create a committee to monitor the damages and then make recommendations and seek whatever appropriations are necessary to fix the problems. This is putting the cart way before the horse. The damages the Plan will cause in this area are already known.

I am an attorney, and I represented all of the farmers in Nebraska and South Dakota in the Barnes litigation referred to above. I also own a permanent home on the MR in the area. Besides being personally familiar with the sedimentation and hydrology in the area, I have interviewed many local residents, numerous business owners and county officials of Knox County, Nebraska, Nebraska Game and Parks personnel and representatives of the Lewis and Clark South Dakota-Nebraska Preservation Association.

As stated earlier, the Plan does not discuss this area below FRD, and it makes no mention of releases from FRD or the damage the releases will cause downstream. The Plan only discusses releases below GPD. Releases from FRD just 50 miles upstream from the headwaters of LCL closely approximate releases made from GPD, except for water added to the MR from rainfall, the NR, PC and a few smaller tributaries between FRD and LCL. Therefore, the releases from FRD will generally be slightly lower than from GPD, depending on these variable conditions between the dams.

FRD RELEASES OF 45,000 cfs - 50,000 cfs

Sustained high releases in this magnitude will cause the following damages:

FLOODING and SATURATION: Many acres of land presently being farmed will be inundated after planting in the spring. Additional acres will become non-productive because of subsurface saturation from elevated groundwater levels. Irrigation farming operations will likewise be adversely affected. The United States will be liable for these damages because this taking without compensation will be permanent as a part of the predetermined operating Plan. Also, additional compensation may have to be paid under easements already filed by the United States in the Barnes and related cases because this proposed operation is more invasive than under the Master Manual, which was the basis of determining the extent of the previous taking and compensation paid.

BANK EROSION: High sustained flows will weaken and erode miles of natural banks and chalk bluffs that characterize the MR in this area. The intentional lowering of the MR in the summer will only aggravate this erosion. This dramatic and abrupt lowering of the MR will cause previously saturated and weakened banks and bluffs to further deteriorate. The bluffs in this area are beautiful. They were noted several times by Lewis and Clark as they passed through this reach of the MR. This area was also the location of the recent I-Max film recreating their expedition for the bicentennial celebration.

RECREATION: High sustained releases of water in this area will fill the MR from bank top in South Dakota to bank top in Nebraska, or higher, and this will interfere

with recreational uses of the river. River access may still be possible in some areas, but in other areas where the water is at or over bank, access will be significantly limited. The number of locations where boaters can go ashore or enjoy a sandbar also will be reduced. Fishing will be more difficult because of the lack of suitable spots.

RIVER COMMUNITIES: There are several riverside communities along the MR where water will be in yards or threatening homes, wells, septic tanks, etc. The high school and ancillary structures in Niobrara will be adversely affected by the high ground water table.

HABITAT: The loss of habitat due to flooding will reduce upland game populations. Threatened bald eagles nest in large cottonwood trees, and there are already thousands of dead cottonwood trees in the area killed by the sustained high flows of the MR in previous years. The sustained high flows proposed in the Plan will worsen an already deteriorated situation.

AREA ECONOMY: To the extent that recreation and the natural beauty of this area are adversely effected by the sustained high flows, the businesses that support the recreation activities and tourists in the area will suffer.

ELECTRICAL POWER PRODUCTION: Releases above 44,000 cfs from FRD go over the spillway and are wasted for purposes of electrical power generation.

FRD RELEASES OF 12,000 cfs – 15,000 cfs

RECREATION: These low releases in the summer months will be **devastating to recreation** in the area. Boating on the MR will dangerous because of shallow water everywhere. Releases from FRD were this low last fall, and a person could almost walk across the MR to the other side. This is a very dangerous situation for boaters and swimmers. Access to the river by public landings and private docks will be virtually impossible in most locations. Fishing will be destroyed in many areas. The water in wetlands and backwaters will be evacuated, leaving ponds and stranded pools full of fish that will die. I personally have seen this happen before in this area under similar conditions. Needless to say, this is no way to treat a scenic river.

AREA ECONOMY: Virtually all of the businesses in this area that support a flourishing recreational season will greatly suffer. These towns include Springfield, South Dakota and the Nebraska towns of Niobrara, Verdel, Lynch and Spencer. Word will spread throughout the region that the MR is too low to use for recreational purposes. This has occurred in past years during periods of lower waters, but to cause this damage to the local economy by intentionally ruining the MR for recreational purposes right in the middle of the season is just tragic. Businesses cannot survive on this basis.

HABITAT: The proposed dramatic lowering of water levels in the MR will interfere with spawning of non-targeted wildlife such as small mouth and large mouth bass, walleye, etc. All fish, including the targeted endangered species, will be stranded in pools cut off from the MR. Then the dramatic raising of water levels a few weeks later will thoroughly confuse and disrupt the animals that depend on a relatively stable MR to build their homes.

ELECTRIC POWER PRODUCTION: Releases from FRD below 44,000 cfs do not maximize power generation.

FRD HIGH RELEASES IN THE FALL

As previously discussed, there will be an increased risk of extremely high releases from FRD in the fall because of the need to evacuate the system in the anticipation of next years inflow into the MR. The raising again of water levels in the late fall will cause a recurrence of the high spring conditions, but will have an adverse effect on the few remaining stands of large old cottonwoods in the area, the habitat for the threatened bald eagle. As mentioned above, it will be a nightmare for beavers, muskrats and similar animals with homes to build to figure out the situation.

THE BIOLOGICAL OPINION

The Service admits in the original Appendix I to the Draft Biological Opinion that the endangered birds are doing well in this area. Moreover, there is very little sediment to create sandbars for miles below FRD. This is because of degradation in the MR channel. The Corps is well aware of this, and it was also discussed in my earlier letter, which is enclosed. Without sediment to create sandbars as desired by the Service, **it makes no sense to regulate this unique stretch of the MR the same way the Service proposes to regulate the rest of the MR below GPD**. As stated earlier, most of the sediment in this area comes from PC and NR, and the neither the Biological Opinion nor the Plan discuss this fact, nor the fact that the high releases from FRD will only flood the area and cause LCL to fill up with sediment more rapidly. During lower releases, the sediment from the NR and PC will simply accumulate faster and further constrict the MR channel, so when the releases increase again, there will be more water backing up and flooding in the area.

In the immediate area of Lazy River Acres where I live, the PC is a very serious problem because sediment has built up at its mouth and is backing up the riverbed, further causing water to back up and flood the farm land between the MR and PC. Again, the Corps in the Final Report referred to above has studied and fully understands this situation, and this current situation will only be further aggravated by the Plan.

CONCLUSION TO COMMENT

It is submitted that the Corps is not in a position to implement the Plan until the serious issues and consequences discussed in this letter are addressed and the damages avoided. The damages listed in this letter are avoidable.

The Corps has never comprehensively addressed all of the issues caused by sedimentation resulting from the creation and operation of the MR Main Stem System. It must do so before implementing such a drastic change in the regulation of the MR as proposed in the Plan.

Congress has passed legislation (the Missouri River Restoration Act of 2000) to study and come up with a comprehensive understanding and solutions to the sedimentation situation. No action should be taken by the Corps to create another set of problems and uncertainties until this work is finished. In the meantime, releases from FRD must be managed to avoid creating the damages described above. Dredging in this area as stated in the Final Report referred to above, and/or sediment transportation and head cutting at the mouths of these tributaries as discussed in the original Appendix I to the Draft Biological Opinion, should be fully considered in order to reduce the continuing impacts of the NR and PC deltas in this area. Finally, soil conservation measures to reduce the sediment being deposited by these tributaries should also be considered.

Flood control remains the highest priority of the MR Main Stem System, and the Plan actually detracts from this objective. The Plan proposes to go forward, create a committee to monitor the consequences and damages when they inevitably occur, and then go to Congress for appropriations to study and fix the problems that have happened. With respect to the area discussed in this letter, this is an outrageous proposal. The problems are largely known, and the solutions are not unreasonable given the extent of the damages that will certainly result if the Plan is implemented as drafted.

Please respond in writing to the concerns expressed in this and my earlier letter. Also, please explain why it makes rational sense to proceed to implement the Plan before completing the work to fully understand and solve the sedimentation issues, particularly as they exist in the area discussed in these letters.

Thank you very much.

Very truly yours,

Richard A. Spellman
705 No 57th Ave.
Omaha, Nebr. 68132
402 556-0697

ccs: Senator Tom Daschle
Senator Chuck Hagel
Former Senator Bob Kerrey
Senator Ben Nelson
Congressman Doug Bereuter
Congressman Lee Terry
Congressman Tom Osborne
Governor Mike Johanns
Rex Amack, Director, Nebraska Game and Parks Commission

Ms. Rosemary Hargrave
U.S. Army Corps of Engineers
12565 West Center Road
Omaha, Nebr. 68114

November 11, 2000

Hand Delivered
and
First Class Mail

Ms. Rosemary Hargrave
Project Manager
U.S. Army Corps of Engineers
12565 West Center Road
Omaha, Nebr. 68144

Re: Comment to the Missouri River Draft Biological Opinion

Dear Ms. Hargrave:

I recently spoke with Mr. Paul T. Johnston, and he advised me to submit this comment letter to you regarding the Missouri River Draft Biological Opinion (Opinion). He also indicated that you would see that my comments are considered even though the comment period has expired. Thank you for your consideration.

This comment focuses on the reach of the Missouri River (MR) which is the thirty-fifty miles of the MR below Fort Randall Dam (FRD) to the Lewis and Clark Lake (LCL). Last month, this unique and beautiful part of the MR was chosen as the site for filming some of the I-Max movie of the Lewis and Clark Expedition because it most closely resembles the magnificence of the MR in its natural and unregulated condition. The Opinion is particularly important to me because I own a year around home located in Nebraska on the MR about ten miles upriver from its confluence with the Niobrara River (NR).

Pre-FRD Situation

In April and June, when the MR was unregulated, flooding would occur from snow melt in the MR watershed. The heavy sediment deposits in the MR from the NR as well as silt carried in the MR were carried downstream during these flood conditions. The unregulated flood stage flows of the MR scoured the channel and transported downstream the NR sediment deposited in the MR. This natural process prevented the formation of a permanent delta at the confluence of the MR and the NR. These unregulated flood stage flows will never be repeated because of the extensive flood damages that would result, among many other undesirable consequences.

Current Conditions Post-FRD

When the FRD and the other dams in the MR system were closed, the reservoirs were filled by empounding water by reducing the amount of water released from the dams. The lower flows in the MR allowed the sediment from the NR to accumulate at the confluence of the MR and NR. The sediment created a delta (NR Delta) which is now permanent. The NR Delta has permanently constricted the channel carrying capacity of the MR at its confluence with the NR.

In 1967, when the Army Corps of Engineers began the planned regulated flows of the MR following the filling of the upstream reservoirs, the NR Delta caused the water to back up, flood farm lands and raise ground water tables in the area. This required Congress to appropriate millions of dollars to relocate of the town of Niobrara to higher elevations. The United States was also required to pay of millions of dollars to farmers in the area because of flooding and altered drainage resulting from the sustained high waters throughout the entire agricultural growing season (rather than only in April and June).

Over the years since the closure of FRD, the sediment being deposited in the MR from the NR has filled the backwater areas of the LCL. This will continue forever because there is no place for the sediment to go except to fill the reservoir and make LCL less and less useful for all of its intended purposes.

Another important consequence of post-FRD regulation of the MR affecting this particular reach of the MR is the degradation of the channel below FRD. Due to the lack of tributaries above the NR and the miles of high chalk bluffs, there is very little sediment in the MR above the NR available for sandbar creation. Any sediment that can be obtained from the high flows proposed in the Opinion will come from over bank flooding and bank erosion. Both are extremely undesirable and would cost the United States, again, millions of dollars in compensation to riparian landowners and municipalities.

The Draft Biological Opinion

The Opinion concludes that in order to save the endangered species, the entire MR would have to be regulated to replicate pre-regulation conditions. To do that, the proposal is to release considerably more water through June to create sandbars. Then the flows would be lowered to expose sandbars for nesting purposes. After nesting, the flows would be increased for navigation purposes.

The reach of the MR that is the subject of this comment would be negatively affected by the plan proposed by the Opinion. Flooding and back erosion will occur, recreation will be disrupted and more cottonwood trees (desirable eagle habitat) will be killed. The proposed regulation in the Opinion will not enhance the habitat for the intended purposes to any significant extent, given that there is a limited supply of sediment above the NR, and there is no place for the sediment below the NR to go other than to more rapidly fill LCL.

My Comment

I express no opinion about whether the species discussed in the Opinion are in fact endangered. I also express no opinion about the effectiveness of the proposed Opinion to save these species. My opinion is limited to the subject reach of the MR. There will be tremendously adverse consequences to this area if the MR is regulated as proposed in the Opinion. Moreover, as discussed above, the hydrology and sediment characteristics in this area will prevent the creation of significant sandbars.

The only affect of the regulation proposed by the Opinion will be to cause financial damage, destroy existing habitat and accelerate the destruction of LCL.

Any change in the present regulation of the MR to accomodate the recommendations in the Opinion cannot be "one size fits all". The flows from FRD must be managed differently so as to avoid damage to the subject reach of the MR. If this is not possible because LCL has become only a pass through reservoir as a result of sediment filling the pool, then this is another problem caused by the regulation of the MR that will have to be solved if LCL is to be preserved.

One solution to the sediment build-up caused by the NR in the MR and LCL is to construct facilities to transport this sediment to below Gavins Point Dam. A solution like this will be necessary in the fairly near future in order to preserve LCL in all events, but this solution will also provide the sediment the Opinion says it needs to create sandbars in the MR below Gavins Point Dam. This solution is being evaluated and should be given very serious consideration.

Please feel free to contact me if you have any questions.

Very truly yours,

Richard A. Spellman
705 No. 57th Ave.
Omaha, Nebr. 68132
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cc: Mr. Paul T. Johnson

BISMARCK, NORTH DAKOTA TRANSCRIPT—OCTOBER 23, 2001

U.S. ARMY CORPS OF ENGINEERS, OMAHA DISTRICT
MISSOURI RIVER BASIN WATER MANAGEMENT DIVISION

In Re: Proposed Changes to the
Guidelines for the Missour River
Mainstem Systems Operation

TRANSCRIPT OF

PUBLIC HEARING

Taken At
Doublewood Ramada Inn
Bismarck, North Dakota
October 23, 2001

BEFORE COL. DAVID A. FASTABEND
NORTHWESTERN DIVISION COMMANDER

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(The proceedings herein were had and made of record, commencing at 7:10 p.m., Tuesday, October 23, 2001, as follows:)

(Videotape played and introduction given by Col. Fastabend.)

COL. FASTABEND: I will now call the names of those who have submitted cards beginning with the elected officials. Therefore, I invite Governor John Hoeven.

GOVERNOR HOEVEN: Thank you, Colonel, and welcome to North Dakota. It's good to have you and your team here. Bob Harms, my legal counsel, will provide a copy of the statement for you and for your court reporter so that she doesn't have to type it in. I've got a written statement, but I'll just read excerpts from it in the interest of time and try to be mindful of the fact that you've got a lot of folks here to testify and a long evening.

On behalf of the State of North Dakota, I offer the same clear and consistent message that we and adjoining states have been voicing for years. The Master Manual must be changed, and the time for that change is long overdue. In addition to my comments, state agencies will be submitting further comments in the coming months for you to consider,

Other 7

as well as tonight, of course.

The five mainstem dams authorized by the Flood Control Act of 1944 were constructed in 18 years. If the Master Manual revision is completed in 2003 as scheduled, it will have taken 14 years. Any further delay to the Master Manual is just not acceptable.

Because the process has taken so long, some historical perspective is necessary. A major controversy arose in 1988 and was portrayed in the film that you just showed with the unnecessary and rapid drawdown of Lake Sakakawea, Oahe and Fort Peck. The drawdown caused significant adverse impacts to many users of the Missouri River. Citizens suffered substantial losses of water for various uses, forcing businesses to be closed and causing untold economic damages. The upper basin states sued the Corps of Engineers to prevent similar treatment in future years. The Corps was directed by the courts to address the contemporary needs of society and consider revisions to the Master Manual.

Legal 85

After years of negotiations, seven of the eight states are ready for a change. Seven of the eight states are ready for a change. It is no

Other 61

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longer upstream states fighting with downstream states. Kansas, Nebraska and Iowa agree with the upper basin states that drought conservation measures are necessary. Believe it or not, even within the State of Missouri there are other individuals and even agencies that recognize the current water management plan for the Missouri River needs to be changed. This new process has taken seven more years and has cost millions of dollars, so we should now conclude this long journey by making the necessary changes.

Other 61 (con't)

In addition to the states agreeing that change is warranted, there are other reasons for change.

The Missouri River is of vital importance to the State of North Dakota. Power generated by the Missouri River dams provides affordable electric rates for our citizens and to the citizens of neighboring states. Seven coal-fired plants use the water for cooling and six other industrial users, including the Tesoro Oil Refinery and the Dakota Gasification plant, make use of the Missouri River water. Approximately 16 percent of the total irrigated area in North Dakota uses Missouri River water.

HPower 11

MoPower 3

6

The Missouri River, Sakakawea, and Lake Oahe provide recreation opportunities to hundreds of thousands of residents and visitors to the state. In the year 2000, almost half a million people.

Rec 26

The quality of the water on the Missouri River is important for municipal water supply and cold-water habitat. If the elevation of Lake Sakakawea falls below 1,825 feet during mid to late summer, the reduced oxygen concentration puts the nationally acclaimed sport fishery of the big lake in serious jeopardy. Low lake levels also increase risk to human health through the resuspension of sediment from the delta portion of the lake.

WQ 14

The cultural and historical sites along the Missouri River are important to the state, the Standing Rock Sioux Tribe and the Three Affiliated Tribes, and further warrant change in the management of the river. Many of these cultural resources are destroyed on a daily basis through erosion, looting, and the absence of shoreline protection and stabilization. Stable lake levels would impact fewer sites so that a change in the operating plan that results in more stable lake levels in times of drought would benefit a resource

CR 17, 18

7

that might otherwise be lost forever.

The draft environmental statement supports change by the benefits outlined in the five alternatives. They improve conditions for endangered species and conserve water in the mainstem reservoir during times of drought. Unbalancing the reservoirs and increasing releases at Fort Peck may provide benefits for the pallid sturgeon, least tern and piping plover. Conserving water in the reservoirs during dry periods improves conditions for fish survival and thus recreation, and translates into more head for hydropower. If these alternatives would have been in place during the drought of the late 1980s, Lake Sakakawea would have been four to six feet higher, translating into far better fish habitat, more efficient hydropower and an overall improvement in the economy of the areas that border the Missouri River.

EnSp 28

I want to turn to the economic realities that further demonstrate the need for change. Recreation has flourished on the Missouri River system. Navigation is less than one-tenth of the economic benefit of recreation. The recreation industry dwarfs navigation in national economic benefits of about $85 million a year versus about

Rec 10

Nav 42, 43, 45, 46

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$7 million a year, respectively. Navigation can no longer dictate management of the entire river system. Navigation provides jobs and transportation alternatives to people in Missouri, but we need to manage the river wisely and upon facts that provide the most benefit to the basin and to our country.

Nav 11

The drought conservation measures included in the five alternatives are essentially those agreed to by seven of the eight Missouri River Basin Association member states. Strictly from North Dakota's standpoint, they don't go far enough, but they are likely the most equitable means of distributing hardship during drought and are supported by seven of the eight states within the basin, including North Dakota. These drought conservation measures proposed by the Missouri River Basin Association should be implemented as soon as possible and will be a vast improvement over the 40-year-old Master Manual.

Other 61

In concluding, the previous drought had terrible consequences for North Dakota businesses that were built upon recreation on the Missouri River. It has taken a decade for our people to recover from that disaster. Uncertainty caused by

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the Corps' management during drought has impeded capital investment and development for new and existing businesses that would build upon the Missouri River's marvelous potential. If we are to sustain the recreation industry, we must incorporate conservation measures that stabilize reservoir levels during the drought.

Rec 22

We know the hardships of drought cannot be entirely avoided. However, those hardships should not be aggravated by sacrificing the interests of all others to float a handful of barges in the lower Missouri. This is not wise management. It is not responsible management and it is not fair management. The pain of drought must be shared equally.

Other 7

There is no question that any of the five proposed alternatives is a marked improvement over the current water control plan. The results of the economic and environmental studies clearly illustrate how the Missouri River and the reservoirs can be better managed to benefit us, our children and the entire Missouri River Basin. If we manage those resources intelligently, realization of their potential can benefit us all. On behalf of the people of North Dakota and the

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Missouri River Basin, I submit it is time for a change on the Missouri River.

Thank you very much for this opportunity to testify. I appreciate it.

COL. FASTABEND: Thank you for your input, Governor.

MR. MOORE: Allyn Sapa.

MR. SAPA: Good evening. My name is Allyn Sapa. I'm here on behalf of the Fish and Wildlife Service to issue a brief statement on the revised draft environmental impact statement for the Missouri River Master Water Control Manual. I'm also here to listen to comments in person from citizens on this important issue.

Other 204

The service has the primary authority for oversight of our nation's rarest animals under the Endangered Species Act. The Missouri River is home to the endangered pallid sturgeon and least tern and the threatened piping plover. The decline of these species tells us that the river is not healthy for its native fish and wildlife and that there needs to be a change in its management to restore the Missouri to a more naturally functioning river system. A healthy river provides wildlife habitat, supports fishing, and makes

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boating an attractive recreational activity.

Congress committed the federal government to preventing extinctions by requiring federal agencies to use their authorities to conserve endangered and threatened species. During the last 12 years our agency has been working with the Army Corps of Engineers to modernize the management of the Missouri River to help stabilize and, hopefully, begin to increase and recover populations of these very rare animals. This new approach was described recently in a document called the Missouri River Biological Opinion, published in November of 2000.

The biological opinion looks at the river as a system and outlines the status of these rare species, the effects of the current operation on them, and a reasonable and prudent alternative to the current operation that will not jeopardize their continued existence.

Our biological opinion is based on the best available science and includes nearly 500 scientific references. In addition, we've sought out six respected scientists--big river specialists--who confirm the need to address flow management, as well as habitat restoration.

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Further, the Missouri River Natural Resources Committee, a group comprised of the state experts on the Missouri River management, endorses the science in the opinion.

If you have read the RDEIS or the summary document, you understand that the GP alternatives encompass the range of flows identified by the service as necessary below Gavins Point Dam to keep the listed species from being jeopardized. Our agency and the Corps also recognize the importance of some flexibility in management that would enable Missouri River managers to capitalize on existing water conditions to meet endangered species objectives without having to go through another 12-year process.

Other management changes identified in the biological opinion include a spring rise out of Fort Peck Dam, an improved hatchery operation to assist declining pallid sturgeon populations, restoration of approximately 20 percent of the lost aquatic habitat in the lowest one-third of the river, intrasystem unbalancing of the three largest reservoirs, and acceptance of an adaptive management framework that would include improved overall monitoring of the river.

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In closing, the service supports the identified goal of the revised Master Manual to manage the river to service the contemporary needs of the Missouri River Basin and the nation. These needs include taking steps to ensure the threatened and endangered species are protected while maintaining many other socioeconomic benefits being provided by the operation of the Missouri River dams. The service stands behind the science used in the opinion and is confident that the operational changes identified in our opinion and included in the RDEIS as GP alternatives will ensure that these rare species continue to be a part of the Missouri River's living wildlife legacy.

The Missouri River is a tremendous river, with a significant and revered heritage. Our influence has altered that river greatly. Changes are needed to modernize and restore health to the river for the benefit of rare species and for people. Thank you.

COL. FASTABEND: Thank you, Mr. Sapa.

MR. MOORE: Jim Berkley.

MR. BERKLEY: My name is Jim Berkley, and I represent the U.S. Environmental Protection

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Other 207

Agency. Good evening. As I mentioned, my name is Jim Berkley. I'm here this evening on behalf of EPA to make a statement regarding our review responsibilities relative to the revised draft environmental impact statement for the Master Manual. I'm also here, as the Fish and Wildlife Service mentioned, to listen to what the public has to say.

The Environmental Protection Agency is required by law to conduct independent reviews and provide written comments and a rating for all environmental impact statements. The law requires EPA also to make its written comments available to the public.

When EPA reviews and rates an environmental statement, it focuses on two main areas. One is the degree of environmental effects of the proposed federal action, and the other is whether the environmental impact statement includes sufficient analyses needed for the public and decisionmakers to understand the impacts of alternative plans under consideration. A critical aspect of this responsibility is to assess whether or not the action agency, the Corps in this case, has complied with all environmental laws,

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regulations, and executive orders such as the Endangered Species Act, Clean Water Act and Environmental Justice.

EPA has been working with the Corps of Engineers since their initial decision to update the Master Manual. EPA is currently in the process of reviewing the RDEIS. Once our review is complete, our comments will be provided to the Corps in written form. The comments will also be made available on EPA's Website. If anyone is interested in that address, please come talk to me when there's a break.

EPA understands that the issues and concerns are complex. That is why EPA teamed up with the Corps of Engineers to ask the National Academy of Sciences to provide an objective study by national experts on the state of the scientific information about Missouri River management. The study will also recommend ways to improve scientific knowledge of the Missouri River ecosystem and approaches to adaptive management of the Missouri River and floodplain ecosystem.

EPA looks forward to its continued work with all of the stakeholders of the basin. If there are any questions and you would like to

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contact EPA, you may do so by contacting me. And I have a bunch of cards. I would be happy to hand some out if anybody is interested. And I also have some counterparts out of our Kansas City office, and I can also put you in contact with them. So thank you very much.

COL. FASTABEND: Mr. Berkley, when do you expect the NAS statement to be released?

MR. BERKLEY: That is expected to be released at the beginning of January.

COL. FASTABEND: Okay. Thank you.

MR. MOORE: Ken Royse.

MR. ROYSE: Good evening, Colonel. Welcome to Bismarck, North Dakota, for this public meeting on the revised draft environmental impact statement. My name is Ken Royse, and I currently have the opportunity to serve on the Burleigh County Water Resource Board. Our County Water Resource Board is authorized by state law to provide a vehicle for local grassroots water management and development of our water resources. And in Burleigh County, as in the whole of North Dakota, there is no greater single water resource, nor any single natural resource, which has a greater impact on our lives and our economy and on

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our present standard of living and our future than the Missouri River.

In recent years our board has taken a wider interest in the Missouri River. We are still concerned with the ever increased volumes of sediment which are continually and constantly deposited, day by day and hour by hour, in our river. And we still believe that the permitting and access to this river, functions controlled to a very large extent by the Corps, are cumbersome and burdensome and are processes which desperately need streamlining. But now we also have concerns which reflect a greater awareness of the value of the river to economic and recreational values of our community and our state.

It is primarily the issues of economics and recreation which I want to offer testimony on today.

Our economy in North Dakota is based primarily on agriculture. We are a dry land farming state. There have been any number of studies which project a vast increase in economic benefits to land and areas along the Missouri River if water can be accessed from that river for irrigation purposes. But in order for that to

WS 11

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occur, the small farmers and the large irrigation projects need assurance that there will be adequate levels and flows in this river. Neither a small farmer nor a large district can commit to expensive infrastructure, intakes and pumps, unless there's some assurance of a level within the river to construct those facilities.

In addition to agriculture, the state relies on tourism and recreation for economic stability. Fishermen from all over the nation come to our state to try their luck in our Missouri River, boaters and water-skiers flock to our river for the beauty and serenity of the river, and our citizens of all ages enjoys swimming and sunbathing along the many sandbars and beaches. To a large extent, economic stability and economic opportunity in North Dakota is tied directly to the water level in the Missouri River and to the water level in the Garrison and Oahe Dams.

Rec 12

I understand the needs of our downstream neighbors to utilize water from that river in a fashion most advantageous to them and their barge traffic economy. In wet years, when there's too much water, we are asked to hold that water, not to release it too fast, not to increase the flooding

Other 7, 198

19

1 downstream. We are asked to do that even to our
2 own detriment in the interests of our downstream
3 neighbors.
4 And in the dry years those same neighbors
5 have no qualms of asking us for greater releases
6 out of the dams and out of the river. They ask us
7 this even though they are well aware that such
8 greater releases mean economic losses to our state
9 to the extent of many millions of dollars.
10 The message I want to give the Corps in
11 this testimony is simply that Burleigh County and
12 North Dakota needs water in our upstream
13 reservoirs. We need adequate reservoir levels for
14 economic stability, we need it for agricultural
15 needs, we need it for our recreational needs. We
16 need it for our domestic and industrial
17 development, we need it for power generation. We
18 need our upstream water to maintain a healthy
19 environment for riparian wildlife and for fish
20 populations.
21 In contrast, our downstream neighbors want
22 low flows in times of flooding and higher flows in
23 times of drought when it benefits them. They want
24 to continue to have the river managed for
25 navigation which equates to a huge federal subsidy

Other 7, 198 (Cont.)

Nav 56, 36

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1 of their barge industry.
2 Thank you for the opportunity to provide
3 these comments. I hope that while you are in
4 Bismarck, you will have time to visit our Missouri
5 River. If you make that visit, you'll see the
6 damages caused by low river levels, including
7 erosion, land loss, and deposits of sediment.
8 Thank you very much.
9 COL. FASTABEND: Thank you, Mr. Royse.
10 MR. MOORE: Andy Mork.
11 MR. MORK: Colonel, members of your
12 staff. Again, welcome to North Dakota. And I
13 guess overall I have a sympathy for your mission
14 here because we know that you can't please all the
15 people all the time, and probably that's the
16 impossible thing we're working with.
17 As you can see, I've got a lot of wrinkles
18 and gray hair. I have been along the river a lot
19 of years. My first memory goes back to 1926 when I
20 observed the last of the paddle wheel boats
21 operating in the Bismarck area. I could tell you a
22 little bit more about that if I had the time. And
23 I've lived with the river pretty much ever since,
24 knew the river very well before the dams and, of
25 course, after the dams, and so on.

21

We object strongly to that statement some are making that the Missouri River is one of the most endangered rivers. It's certainly not true of our area. It is one of the most improved rivers and certainly one of the most changed rivers, we'll certainly admit to that. But we certainly do have remaining problems in our area.

Other 208

I represent the BOMMM Joint Board, which is a board composed under the laws of the State of North Dakota. We represent the five counties adjacent to the Missouri River from Garrison Dam down to the Oahe Reservoir. We were organized in 1983, and our mission has been to protect the riparian land from bank erosion during those years. We've had some success, but more and more is necessary to be done.

In looking over this proposed plan that you have here, I'm not going to comment on each one of them. I'm just going to somewhat generalize on it because of the time we have.

It is obvious that the Corps no longer controls the river for the greatest benefits of navigation, flood control, hydropower, water supply, and recreation. It is now dictated by the Endangered Species Act through the Fish and

Legal 86

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Wildlife Service to prioritize the endangered species above all other purposes. There apparently are no benefit/cost study requirements and the resulting huge costs above benefits are obvious.

HPower 12

Some of these dollar costs are the loss of hydro revenue by forcing high spring generation when power is less valuable, loss to the navigation industry and those it serves by curtailed navigation, increased downstream flood losses, loss of hydro revenue at Fort Peck by dumping up to 11,500 cfs over the top of the dam for six weeks without it generating a bit of hydro revenue. And this seems to be a first that has happened in the dam system, I think in Pick Sloan Dams.

Nav 30

HPower 28

Also, of great concern especially to our BOMMM Board, the way we're organized and for the purpose we're organized, is increased bank erosion in the Garrison to Oahe reach during the high Oahe years. I should enlarge a little bit. In the split-level concept, certain years our 80 miles of river will have higher flows than they otherwise would have been, and when the Oahe Reservoir wants to be raised up, of course, the flip is -- the opposite is true, and we'll have lower than normal years. And we have just gone through a low -- a

ErSd 13

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bad low year because of drought this last year and we know what detriment that can be to our overall operation of the dam, including two of my irrigation intakes that we were unable to operate this summer. And, of course, in '97 we had that extremely high, I think about a 200-year event that went by here, and so we know what that is. So this split-level concept is going to exacerbate or enlarge on that.

ErSd 13

There's one thing, a statement on page 27 that I take very serious issue with. It says, the bank erosion is a function of the total volume of water and not the distribution of that volume. We've always contended, and the nine civil engineers I've interviewed since that time agree with me, that bank erosion is an exponential function of the discharged water, not a straight line function. And this concept, if the Corps keeps on with that, why, they'll say it doesn't matter when the water is discharged or what method we discharge it, we won't have any more bank erosion than if we had kept it steady.

ErSd 13

In order to bring home that point, I've got to tell you the story about my friend, Chub, went to the doctor for health purposes and the

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doctor told him he had to cut down on drinking, only one drink a day, and Chub said, heck, that wasn't worth it. I saved her up till the weekend. And, you know, that relates clear to the outlet of the water.

But BOMMM strongly supports the higher summer levels in the Garrison Reservoir obviously because of the tremendous recreation industry we have here and because North Dakota gave up 550,000 acres of land to have this project put in as compared to one of the states downstream that gave up nothing in land.

Other 45

So we'll take it -- we support the preservation of the endangered species when it can be done in concert with others and when there is some reasonable benefit/cost studies connected with it, but until then it's very difficult for us or the public to support that.

Other 7

I'll submit the statement here and I appreciate the opportunity.

COL. FASTABEND: Thank you, Mr. Mork.

MR. MOORE: Walter Small.

MR. SMALL: Hello, Colonel. My name is Walter Small. I live south of Bismarck. We irrigate out of Lake Oahe, and we've had a

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1 considerable amount of trouble appropriating water
2 from there, but the Corps of Engineers has helped
3 me get our pumps running.
4 And the impact of irrigation on the
5 economy of North Dakota is tremendous. The
6 wildlife and the irrigated fields is -- I mean, you
7 can see the benefits from it. And I just wanted --
8 I don't have no statement or nothing. I'll get
9 something in writing and send it to you later, but
10 I just wanted to make a comment. Thank you.
11 COL. FASTABEND: Thank you, Mr. Small.
12 MR. MOORE: Lee Klapprodt.
13 MR. KLAPPRODT: Hello, Colonel, and
14 welcome to Bismarck. I want to take just a moment
15 to express my viewpoint of what you've presented so
16 far tonight.
17 My name is Lee Klapprodt. I live here in
18 Bismarck, and I have a small bait and tackle
19 distributorship called Silver Strike Distributing.
20 I am very interested in the fact that the
21 Corps of Engineers has not selected a preferred
22 alternative to present in these hearings. I think
23 that's rather disappointing. It's like putting a
24 dart board in front of the public and expecting us
25 to shoot darts at the various option that we think

WS 11

Other 209

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1 is the best way to go. I think what it does is
2 kind of sets the stage for a lot of disagreement,
3 that the Corps can then say that because of that
4 disagreement, that it's not going to change from
5 the current operating plan.
6 Based on my experience on Lake Sakakawea
7 over the last several years, the current operation
8 plan is really a disaster. It resulted in a
9 devastating impact to our coldwater fishery in Lake
10 Sakakawea after the drought of -- during the
11 drought and after the drought of the late 1980s and
12 early 1990s. That impact lasted until just the
13 last few years, we've started to see a rebound in
14 the fishing opportunity that we had prior to the
15 drought.
16 The current operating plan, as I said
17 before, is a disaster. We need to see a change.
18 Any of the alternate plans that you put up on the
19 dart board are preferable to the current operating
20 plan. Thank you.
21 COL. FASTABEND: Thank you.
22 MR. MOORE: Lauren Lesmeister.
23 MR. LESMEISTER: Hi. I'm Lauren
24 Lesmeister. I live here in Bismarck and I'm here
25 representing myself as a North Dakotan.

Fish 13

Other 7

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And I have been really interested in this issue for a number of years and just lately I have been doing a lot of reading about it and I've looked over the six options, and I, too, was kind of disappointed that the Corps didn't put out a preferred option, but I do have one, and after looking it over, I think that the plan that would benefit the most people and the most states and do the least harm to people and the fewest states would be the flexible flow alternative. And I think that's 2021, I think is the title of that one. So that's my statement.

Other A

COL. FASTABEND: Thank you, Mr. Lesmeister.

MR. MOORE: Mike Donahue.

MR. DONAHUE: Good evening. I'm Mike Donahue. I represent the North Dakota Wildlife Federation here in the State of North Dakota. I would like to thank you for holding the hearing. Our organization, we represent approximately 1,200 members from all walks, occupations around the state.

We believe we as an organization have an understanding of this issue, the river, and the multiple interests in it. We believe there's a

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broad understanding out there. There has been much work going on here in the state. We believe there's a large effort to communicate, coordinate and cooperate in this whole matter as voiced by the recommendation of seven of the eight states in the Missouri River Basin Association.

Other 7

What we would like to ask you to do is pay attention to that recommendation and pay attention to the comments of our governor tonight, that and the recommendations being made by the U.S. Fish and Wildlife Service.

As we see and as has been going on, what's called for is a change. We see the current operating plan as inflexible, it's not being influenced by new scientific data, and it continues to accept what we consider political influence from downstream interests. That things have changed. What was going on a hundred years ago is not what we need in the next hundred years. Thank you.

COL. FASTABEND: Thank you, Mr. Donahue.

MR. MOORE: Rose Nichols.

MS. NICHOLS: My name is Rose Nichols and I'm from Lincoln, North Dakota. I just represent myself. I just have a short comment.

I support the alternative GP2021 because

29

it's the most beneficial to wildlife while it still observes the needs of industry, it balances the needs of people with environmental protection for the future.

Other A

COL. FASTABEND: Thank you, Miss Nichols.

MR. MOORE: Curt Dahl.

MR. DAHL: Colonel, my name is Curt Dahl. I'm the current managing partner of Ricker's Marina in Mandan, North Dakota. We are one of the oldest marinas on the upper reach of the Missouri. This marina has been in existence for over 45 years and been in continuous operation. In the last 10 years we have tripled the size and the use of the facility just from public demand and use in the Bismarck-Mandan area.

This past summer with the low flows we managed quite well in the early part of the season, and as we went down the summer and we were advised by the Corps by the end of August, first part of September to remove all our large boats, it essentially shortened our business year by one and a half months by the low levels that we have now. And in my 25 years on the river, this is the lowest levels that we have seen.

We would support the MCP alternative. We

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would ask the Corps to take a harder look at cost and benefit studies and ratios and particularly land costs and land use. The numbers that are being used today are outdated. Some of them date back to as late as 1985. And there is no current values being used, to our knowledge.

Other 210

Mr. Mork addressed the page 27. I hope it's a misstatement, the function of the total volume versus the distribution of that volume. Whoever made that statement has not lived on the river and watched the erosion at the higher flows over a shorter period.

ErSd13

If one of the other plans were to be adopted in the flex plans and the flows, we here in our reach, we need more erosion, bank stabilization protection. One can simply look to Fort Pierre in Pierre, South Dakota, and look at the buyout there because of the delta that's formed in Lake Sharp. And when that forms in south Bismarck, and I say "when it forms," it's in the process of forming right now from erosion, the buyout there and the damage there will be many, many times of what you're seeing in Fort Pierre today.

ErSd13

I've had the opportunity to attend three of the Basin Association meetings, two in Kansas

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City and one in Bismarck, and I've sat with all the people that are the players. I've sat with the barge people, I've sat with the wildlife, I've sat with the tribes, I've sat with everybody. And we were given the project or the goal to come to an agreement, and by hook or crook we had to do it, and one of the biggest things that I learned down there, if you get the gain, you've got to share the pain, and right now I think there's a big difference in that the upper states are sharing a lot more pain than the lower states and we would like to see that equalized. Thank you.

Other 7

COL. FASTABEND: Thank you, Mr. Dahl.

MR. MOORE: Dan Vondrachek.

MR. VONDRACHEK: Good evening, Colonel. My name is Dan Vondrachek and I represent the Dam Yacht Club. And for the sake of the transcriptionist, that's a three-letter word, not four. Point that out to her.

Our organization consists of about 70 or 80 members from Bismarck and Minot that utilize Lake Sakakawea, and our primary interest is obviously in the area of recreation. You've heard that word many times tonight. It's important to a lot of us that live in North Dakota.

Rec 21

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Beacom. I am from Sioux City, Iowa. I am a navigator pilot on the various rivers, including the Missouri River.

One of the things that I find when we come to a meeting like this, just like the gentlemen talked to, we have to make decisions. Unlike the old cowboy movies of the 40s and 50s, we can't tell who the good guys and the bad guys are because we don't have black and white hats to look at. And it seems like the Corps of Engineers, even though they're bareheaded, at the present time usually have to wear the black hats.

It would seem to me that we should get a little deeper into this subject and maybe we could spread some of these black hats around. Now, I'm not advocating that we should discontinue the fishery in North Dakota, South Dakota and Montana, but the fact of the matter is that all of the fish that they're putting in there are nonnative, and according to the Endangered Species Act they're not supposed to be there to begin with.

Fish 14
Other 211

Now, we can go in all kinds of circles about what we're going to do to help these fish, but we've got 32 species of fish in Montana, North Dakota and South Dakota that are warm water species

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that numbers are declining and they're being predated on by these fish that they like to catch.

Now, do I want to shut down a fishery? No, I don't. Do I think they should keep their walleye? Yes, I do. But I also think that the economic problems that we're suffering down south balance the fact that they're breaking the law up north. Now, there's a lot of fisheries biologists that will say, oh no, this is not true. These are native species. And believe it or not, they figured that out in 1960 because a fisheries biologist discovered some old data that they found these fish in the lakes in the 1890s. Of course, the previous data said they were planted there in 1874 to 1878. It seems like the railroads did the planting, and every one of these lakes is within walking distance of a railroad right-of-way.

Fish 13

My understanding is that all government bodies and all state bodies are supposed to be obeying the Endangered Species Act. They certainly throwed it at the Corps of Engineers that they were putting everything in jeopardy with the current water control plan. And I think it's time they looked into their own nest to see what their eggs look like instead of going to the Corps of

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Engineers with blame every time something comes around. And if anybody wants to check that data, it's very easily available on line, or if they want to contact me, I'm available and I brought it with me. Thank you.

COL. FASTABEND: Thank you, Mr. Beacom.

MR. MOORE: Jonathan Bry.

MR. BRY: Hello. My name is Jonathan Bry, and I represent the Dakota Chapter of the Sierra Club. I'm speaking to you not only as a conservationist, but also as a person who has spent countless days enjoying the Missouri River in North Dakota. On any given summer day in North Dakota, you can find many people enjoying an afternoon on a sandbar. I feel very fortunate that we live near a stretch of the Missouri River that has not been channelized and still contains sandbars. The river is capable of taking care of itself if we allow it to flow in the most natural way possible.

I am very disappointed that the Army Corps has decided not to endorse the recommendations of the Fish and Wildlife Service as the preferred alternative to the Master Manual. The needs of an almost nonexistent barge industry are not nearly as important as the needs of fish, wildlife and

Other A

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1 people, all who use and depend on the Missouri
2 River. However, I am pleased that the Fish and
3 Wildlife Service recommends a change from the
4 current Master Manual and that the Army Corps of
5 Engineers is releasing alternatives.
6 The current water control manual places
7 the interests of the barge industry over the needs
8 of fish, wildlife and people. This outdated Master
9 Manual is jeopardizing the survival of the
10 endangered pallid sturgeon, the endangered least
11 tern and the threatened piping plover by providing
12 a near steady flow to support barge traffic
13 downstream rather than allowing for the natural
14 seasonal rise and fall of the river. A more
15 natural hydrograph needs to be reinstated.
16 Of the six alternatives, only the GP2021
17 flexible flow alternative fully encompasses the
18 flow recommendations in the Final Biological
19 Opinion.
20 And according to the Corps' analysis, this
21 alternative provides substantial fish and wildlife
22 benefits in comparison to the current water control
23 manual and other alternatives identified in the
24 revised draft environmental impact statement. It
25 does not impact other uses of the river like

EnSp 8

Other A

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1 floodplain farming, hydropower, or flood control.
2 The river depends on changes in flow to
3 complete the natural seasonal cycle that occurred
4 before the dams were constructed. A split
5 navigation season may not be a fix-all solution to
6 the restoration and recovery of the Missouri River,
7 but it is a very important first step. Opposing a
8 river that flows in a more natural manner
9 contradicts with our goals of conservation, and we
10 support the extensive study and recommendations of
11 the Fish and Wildlife Service.
12 The barge industry often claims that you
13 don't have to radically alter the flow of the river
14 to create wildlife habitat. First of all, the
15 river has already been radically altered to provide
16 a near steady flow of water to support the barge
17 industry. Managing the river using the
18 recommendations of the Fish and Wildlife Service
19 should not be considered a radical alteration since
20 it brings us closer to living with a more natural
21 river.
22 One option that I read about in the Omaha
23 World Herald for restoring piping plover and least
24 tern habitat below Gavins Point Dam was to build
25 sandbars. The idea of building man-made sandbars

EnSp 8

Nav 56

EnSp 17

38

rather than allowing the river to create them naturally is disturbing. A natural sandbar is like a beautiful piece of sculptured art and the dynamics of a healthy sandbar are really quite complicated. Areas that do not have sandbars on the Missouri should feel deprived. They provide a place to explore wind-swept sand dunes and wetland areas, all teaming with life.

EnSp 17

We have nearly engineered the Missouri River to death. It seems that when we encounter an engineering problem, we want to fix it with another engineering project. We can help let nature take its course if we allow the river to flow more naturally.

The expense of maintaining the Missouri River to accommodate an insignificant amount of barge traffic does not justify the financial benefits that the barge industry generates. This industry is heavily subsidized and they fail to mention that when they compare the costs of shipping on the river with other forms of freight. The expense of maintaining our river for this relatively small industry and the environmental cost of managing the Missouri River mainly for navigation are very high costs to all of us.

Nav 11, 35, 56, 36

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The needs of upstream states like North Dakota have been ignored for too long. It is time to update the Master Manual for the Missouri River. Please select the GP2021 alternative over the current water control manual. Thank you.

Other 7, A

COL. FASTABEND: Thank you, Mr. Bry.

MR. MOORE: Barbara Wicks.

MS. WICKS: Colonel, I am the wife of a World War II hero. My husband's name was Chaskey Wicks. He died seven years ago, in '94. And I worked off the reservation for 16 of the 25 years I was married to my husband, and I have a lis pendens here of 1500 acres that is three and a half and four miles off of the Missouri, up the Cannon Ball River that was -- I know this is not the issue you want to hear, but I didn't make it down to the reservation area.

But what I want to say here is 80 acre-feet was taken from the reservation higher than in Morton County or across the river in those counties, and I think a prejudicial thing happened at that time, plus the Indian people were only paid one-third the amount of money the white people were paid for their land. And my family has been a political family, Joe Wicks -- going back to Joe

Tribal 30

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Wicks and Governor Langer. And I'm not a speaker, but you heard what I had to say.

COL. FASTABEND: Thank you, Ms. Wicks.

MR. MOORE: Sheila Dufford.

MS. DUFFORD: Hi. My name is Sheila Dufford. I'm president of Lewis and Clark Wildlife Club here in the Bismarck-Mandan area. My membership is made up of a lot of sportsmen and outdoor enthusiasts and wildlife enthusiasts. We use the Missouri River both for recreation and fishing and consumptive uses, hunting, as well as just enjoying wildlife and birdwatching.

It seems the river, the way it's been managed in the past, has mostly been to the detriment of the natural environment for industrial uses and power generations. And all this is very important, but I think we need to start sharing our environment with some of the natural resources. As we see more species become endangered, it's just an indication of what's to come. These are the first animals that are impacted by our activities.

And we need to learn to share these resources with our world because if we continue to utilize everything to the fullest extent, we're going to leave this state and the resources, even

Other 7

41

this world, less of a world to people who come after us, our children and our grandchildren. They won't have the opportunity to do the things that we do. They won't have the opportunity to see the things that we get to see because they'll no longer be here. And this is kind of the gist of the Endangered Species Act. I strongly support that.

The reservoirs along the Missouri are unnatural habitats, and many of the endangered species wouldn't live there anyway, so we also support the game and fish that have been planted there and the industry that's grown around that.

There has been a lot of benefit to the dams, but we need to balance the benefits of mankind, the benefits of the natural world and the wildlife species that are here. I think we can do that and I think that changes in the manual are working in that direction. I support all the alternatives over the current plan.

COL. FASTABEND: Thank you, Ms. Dufford.

Is there anyone else that would like to make a comment? If you can give us your name and organization, if you represent one.

MR. DOSCH: My name is Ed Dosch. I'm here tonight speaking on behalf of the North Dakota

EnSp 8

Other 7

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Sports Fishing Congress, an organization that provides a political voice for all active fishing clubs in North Dakota.

The Missouri River and its reservoir are extremely important to us, so we appreciate this opportunity to provide our thoughts on the revised draft of the Missouri River Master Manual.

We are very disappointed that it has taken the Corps of Engineers so long to come up with an alternative to the existing Master Manual. We are even more disappointed that the Corps has failed to name a preferred alternative. Failing to do so has made it very difficult for us to be specific with our comments. Accordingly, our statement tonight will be general in nature. If a specific alternative finally surfaces, you can count on us to expand on these comments.

Other 209

North Dakota anglers experienced a painful inadequacy of the current Master Manual during the drought of the late 1980s and early 1990s. It was very obvious that the Master Manual used to govern the operation of the system's reservoir did not adequately recognize the major significance of recreation and other upstream uses. Instead, it dictated to the Corps that they service an

Rec 22

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insufficient, tiny fleet of rusty barges at the expense of other users.

Thankfully good sense, not to mention the threat of a lawsuit, caused the Corps to deviate from the current Master Manual to address the critical needs of other authorized system users during that drought. It has taken a decade to restore the fisheries on Lake Sakakawea to what it was before the last major drought.

Other 23

The Lake Sakakawea fishery has finally regained its national significance demonstrated by the fact that they host several major fishing derbies each year. Unfortunately, the new draft annual operating plan based on that same tired, old Master Manual again calls for potentially sacrificing our fisheries and benefits to other system users at the expense of floating an even smaller number of barges. This can and must change.

Fish 15

We have been reading in the news lately that after years of negotiations seven of the eight member states of the Missouri River Basin Association are in agreement that change in operation of the Missouri River system is badly needed. We find this very encouraging since it

Other 61

44

signals a change from the longstanding upstream versus downstream fighting. We appreciate the fact that all but one of the lower basin states are in agreement that drought conservation measures are a necessary component in the new Missouri River Master manual. We wholeheartedly add our support for drought conservation.

As you see, there is a huge disparity in the system's benefit under the current Master Manual. Since North Dakota gave over 500,000 acres of prime land to the reservoir, we believe we should have change in the Master Manual that protects upstream interests during drought like downstream interests are provided during floods. The Corps' study shows that the entire region and the nation will benefit from the changes in the Master Manual. This cannot be ignored because a few politically powerful barge companies want the system operated to satisfy their greed.

Any of the five proposed alternatives is a marked improvement over the current water control plan. Like others in this room, we believe the Missouri River Master Manual must be changed to the contemporary need of the basin, and the time for change is overdue.

Other 7, 205

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COL. FASTABEND: Thank you, Mr. Dosch. Mr. Dosch, if you would fill out one of these cards so we have a good record of how your name is spelled and everything, that would be helpful.

MR. DOSCH: I did fill one out when I came in.

COL. FASTABEND: Okay. It didn't turn up in the pile. Anybody else want to make a comment?

MR. SCHAIBLE: Good evening, Colonel. My name is Bob Schaible. It's a good German pronunciation, by the way.

COL. FASTABEND: Oh, that helps.

MR. SCHAIBLE: If you can get the S-c-h, you got it pretty much made.

COL. FASTABEND: Good enough.

MR. SCHAIBLE: Anyhow, I'm here speaking on my own behalf. And over the years I have been involved in the Boy Scout program. I have taken scouts down the Missouri River four times. I know that there's other troops in this area that go down the river almost annually.

But, anyhow, I have seen the use of the Missouri River grow tremendously in the last 15 years. The troops typically start at the tailrace, and that might be on a Thursday or Friday

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afternoon, and a lot of times we'll get into Sunday afternoon traffic. And when we first started coming down the river, we could go to the Fox Island exit or entrance, the boat landing there, and we could get off the river without having a lot of river traffic, boat traffic, and that type of thing. The last few years it's a little more difficult because you typically get to Bismarck about noon and there's a great deal of traffic on that river.

And so I guess I say that because I wanted to point out the fact that the river is being used more and more every year. And you have had businessmen that talk about businesses, selling boats and they're selling boats and people using the river more and more.

Rec 27

I'm also concerned about the wildlife, wildlife in the river, wildlife on shore and in the riparian areas. I think that you need to take that into consideration. You and several people here touched on the pallid sturgeon. I hope that in the future there will be more than just a pallid sturgeon in a piece of plastic that our children and grandchildren can see.

EnSp 28

I borrowed this from my friends from the

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U.S. Fish and Wildlife Service, and I brought it here tonight to make a point, because unless some changes are made, this is the only way people are going to see the pallid sturgeon in the future, and I think that's pretty sad. Of course, you know about the piping plover and the least tern.

I hope that the legacy that I and those people that are in the room tonight can leave behind is that this has been a plan that has been well thought out. The thing is that we have to think of scouts, we have to think of our children, and what your plan is going to do to people 10 or 15 or 50 years from now. And so I want to leave that with your thought in mind.

I guess I wrote a note to myself here, I think the best thing would be the flexible flow plan, the alternative. And the reason I say that is because it's when the water is there, you know, let the water flow through the system. But when it's not, then you have to be concerned about what the impact is from top to bottom. And that starts from Three Forks, Montana, where Lewis and Clark ventured to, as everyone here knows, and it ends at St. Louis where Lewis and Clark started from. And going back 200 years, the legacy is that you're

Other A

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1 developing something tonight or in the near future
2 that's going to be a legacy for our children and
3 you need to keep that in mind. And I thank you for
4 the opportunity to speak tonight.
5 COL. FASTABEND: Does anyone else want to
6 make a comment?
7 MS. YELLOW BIRD: In the languages of an
8 indigenous nation of which I am a citizen, I just
9 greeted you with respect, and I said today is a
10 good day. My name is Pemina Yellow Bird. I'm an
11 enrolled member of the Mandan, Hidatsa and Arikara
12 Nation.
13 On behalf of our people, I want to welcome
14 you here to our aboriginal homelands. Long before
15 anyone else saw what we call the Missouri River,
16 our mysterious or holy grandfather, our peoples
17 were occupying both sides of the river for many,
18 many millennia. You are in our homelands so we're
19 glad to see you here.
20 COL. FASTABEND: Thank you.
21 MS. YELLOW BIRD: You're going to be in
22 our reservation homelands tomorrow for a hearing,
23 so I won't go into any great depth except to say
24 that the revised draft environmental impact
25 statement is weakest in its assessment of the

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1 impacts of the current water control plan and all
2 of the alternatives to our sacred and cultural
3 sites. There's very little study done on current
4 impacts or any impacts under any of the
5 alternatives. And what study has been done is
6 practically useless to our nation as we try to
7 determine what would be the best choice among the
8 alternatives.

Tribal 9, 12, 17

9 The assessment that's been done did not
10 take into consideration erosion, what erosion does
11 to our sacred and cultural sites. What you folks
12 call historic properties are sacred to us. Your
13 assessment did not take into consideration looting
14 and the illegal sale of the contents of our
15 relatives' burials or other artifacts that are
16 exposed due to lower water levels.

Tribal 17

17 The United States Army Corps of Engineers
18 has consistently failed to appropriate adequate and
19 appropriate moneys to stabilize the shoreline to
20 prevent the destruction and the degradation of our
21 sacred and cultural sites, and we are not going to
22 be able to adequately assess that issue unless we
23 have accurate, correct data which we do not have in
24 the revised draft EIS.
25 In order to minimize any further damage to

Tribal 15

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our sacred and cultural sites, we must maintain a pool level at 1825. This is even more urgent when you realize that I and others my age are the first generation of ancient, ancient peoples to grow up not knowing what our homelands looked like because our homelands were flooded out. What little we have left is precious to us and it's necessary for the continuity and the revitalization of living cultures and spirituality.

Tribal 18

I want to say thank you to you for listening to me and look forward to seeing you in our homelands tomorrow. Good night.

COL. FASTABEND: Thank you. See you tomorrow.

Would anyone else like to make a statement?

MR. SPRYNCZYNATYK: Good evening, Colonel. For the record, my name is David Sprynczynatyk. I'm a resident of Bismarck, North Dakota. And the words of one of my favorite philosophers is deja vu all over again.

For the past 30 years I have had an opportunity to work in water resources, and during that period of time I don't know how many times we have sat through hearings, through meetings,

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through discussions on the management of the Missouri River. The fact is the management of the Missouri River is one of the most contentious issues there is within the basin states, but the fact is also that for the people of North Dakota economic development and Missouri River are synonymous. To us it's a matter of water supply, it's a matter of irrigation, it's a matter of recreation, it's a matter of fish and wildlife. And the fact is that the Missouri River is our lifeblood.

I would ask you, if nothing else, to seriously consider the changes that need to be made in order to best serve the people of all the Missouri River Basin with the Missouri River. The fact is the video earlier tonight said on several occasions that priorities and needs have changed. I think you've heard that this evening, that we need to recognize that not only in the upper basin states, but I would hope in the lower basin states, too, priorities and needs have changed, and for that very simple reason I think we need to make adjustments to the management of the system.

Other 7

I think there are ways to do that. I think what the Corps has done is laid out several

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excellent plans that can recognize the changes that need to take place that will in fact benefit all of the people.

I think it's important that both fairness and equity be considered as the decision is made, and that fairness and equity has to be in considering both the pain that's suffered by everyone, as well as the benefits that are to be gained.

Other 7

Earlier this evening the gentleman from the lower basin states made the comment about how things aren't natural today. Well, they may not be natural, but we still have a very important natural resource available to us, and we have to be very careful in how we manage it and we need to recognize what it means for the future.

The last comment I would make is that I think the record would show that prior to 1943 and 1944, people in the lower basin swore at the upper basin states to keep their water, and I think you'll also find that since the dams have been built and the capability to manage the system has been put into place, some of those same people are now saying we want our water. The fact is that water belongs to all the people in the Missouri

Other 172

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River Basin and to the resources that exist in this area, and I would ask that the Corps seriously consider making changes, recognizing what needs to be done to protect the people of the basin, as well as the natural resources. Thank you.

COL. FASTABEND: Thank you, Mr. Sprynczynatyk.

Would anyone else like to make a comment?

MR. HILDEBRAND: For the record, my name is Dean Hildebrand. I'm the director of the North Dakota Game and Fish Department.

In the interest of time, I want to introduce what General Sprynczynatyk, the prior speaker to me, had to say. I think he put it succinctly, and our governor certainly expressed our interests, and I would like to go on record supporting that testimony.

Other 212

COL. FASTABEND: Thank you, sir. Are there any additional comments?

In closing, I would like to remind all of us that the hearing administrative record is going to be open through 28 February 2002, for anyone wishing to submit written, faxed, or electronic comments. Also, if you want to be on our mailing list to receive a copy of the transcript, you need

to fill out one of the cards available at the entrance.

If there are no further comments, this hearing session is closed. Ladies and gentlemen, I thank you for joining us tonight and providing us your input. Thank you very much.

(Concluded at 8:58 p.m., October 23, 2001.)

CERTIFICATE OF COURT REPORTER

I, Denise M. Andahl, a Registered Professional Reporter,

DO HEREBY CERTIFY that I recorded in shorthand the foregoing proceedings had and made of record at the time and place hereinbefore indicated.

I DO HEREBY FURTHER CERTIFY that the foregoing typewritten pages contain an accurate transcript of my shorthand notes then and there taken.

Bismarck, North Dakota, this 1st day of November, 2001.

Denise M. Andahl
Registered Professional Reporter

State of
North Dakota
Office of the Governor
John Hoeven
Governor

October 23, 2001

Welcome to North Dakota.

On behalf of the State of North Dakota I offer the same clear and consistent message that we and adjoining states have been voicing for years. **The Master Manual must be changed and the time for that change is long overdue. In addition to my comments, state agencies will be submitting further comments in the coming months for you to consider.**

Time for change:

The five mainstem dams authorized by the Flood Control Act of 1944 were constructed in 18 years. If the Master Manual revision is completed in 2003, it will have taken 14 years. The people of North Dakota and the Missouri River Basin can wait no longer. To reinforce this point, on September 18, I joined five other governors, in a letter to the President urging him to see that changes in the Missouri River management are made and within a timely manner. In the past decade, we settled lawsuits that provided equal footing for upper basin needs, expecting the new Master Manual would be completed in a reasonable time. Fourteen years is long enough. Any further delay to the Master Manual is not acceptable.

Some History:

Because the process has taken so long, some historical perspective is necessary. A major controversy arose in 1988 with the unnecessary and rapid drawdown of Lakes Sakakawea, Oahe, and Ft. Peck. The drawdown caused significant adverse impacts to many users of the Missouri River. Citizens suffered substantial losses of water for various uses, forcing businesses to be closed and causing untold economic damages. The upper basin states sued the Corps of Engineers to prevent similar treatment in future years. The Corps was directed by the Courts to address the contemporary needs of society and consider revisions to the Master Manual. In 1989, it initiated the first update of its Master Manual. In 1994, the Corps published a preferred alternative, which met with widespread criticism throughout the basin. As a result, the Corps initiated a new process to rewrite the Master Manual. Although I'm very disappointed that this process has taken so long, it is extremely important for everyone to understand that since 1994 significant agreement has been reached among the basin states.

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- The cultural and historical sites along the Missouri River are important to the State, the Standing Rock Sioux Tribe and the Three Affiliated Tribes, and further warrant change in the management of the river. Many of these cultural resources are destroyed on a daily basis through erosion, looting, and the absence of shoreline protection and stabilization. Stable lake levels would impact fewer sites, so a change in the operating plan that results in more stable lake levels in times of drought would benefit a resource that may otherwise be lost forever. These steps should be followed by the commitment of resources to stabilize the shoreline in order to protect and preserve these cultural and historical sites.

The draft EIS supports change by the benefits outlined in the five alternatives. They improve conditions for endangered species and conserve water in the mainstem reservoirs during times of drought. Unbalancing the reservoirs and increasing releases at Ft Peck may provide benefits for the pallid sturgeon, least tern and piping plover. Conserving water in the reservoirs during dry periods improves conditions for fish survival and thus recreation, and translates into more 'head' for hydropower. If these alternatives would have been in place during the drought of the late 1980s, Lake Sakakawea would have been 4 to 6 feet higher, translating into far better fish habitat, more efficient hydropower and an overall improvement in the economy of the areas that border the Missouri River.

I want to turn to economic realities that further demonstrate the need for change. When the great dams were built, navigation was expected to move 20 millions tons of goods annually yet, that projection was unrealistic, with current levels of navigation being a paltry 1.5 million tons of goods annually. Recreation, however, has flourished on the Missouri River system. Navigation is less than 1/10th of the economic benefit of recreation. The recreation industry dwarfs navigation in national economic benefits of $84.7 million and $7.0 million respectively. Navigation can no longer dictate management of the entire river system, especially in view of the system-wide benefits that total $1.9 billion annually. Navigation provides jobs and transportation alternatives to people in Missouri, but we need to manage the river wisely and upon facts that provide the most benefit to the basin and to our country. In view of the economics, the justification for change is obvious.

What we want--Agreement on drought control strategies:

The drought conservation measures included in the five new alternatives are essentially those agreed to by seven of the eight Missouri River Basin Association member states. Strictly from North Dakota's standpoint, they do not go far enough. But, they are likely the most equitable means of distributing hardship during drought and are supported by seven of the eight states within the basin, including North Dakota. These drought conservation measures proposed by MRBA should be implemented as soon as possible and will be a vast improvement over the 40-year-old Master Manual.

The previous drought had terrible consequences for North Dakota businesses that were built upon recreation on the Missouri River. It has taken a decade for our people to recover from that disaster. Uncertainty caused by the Corps' management during drought has impeded capital investment, and development for new and existing businesses that would build upon the Missouri River's marvelous potential. If we are to sustain the recreation industry, we must incorporate conservation measures that stabilize reservoir levels during drought.

We know the hardships of drought cannot be entirely avoided. However, those hardships should not be aggravated by sacrificing the interests of all others to float a handful of barges in the lower Missouri. This is not wise management. It is not responsible management, and it is not fair management. The pain of drought must be shared equitably.

In conclusion, I urge the Corps to adhere to its current schedule for completing the Master Manual revision process. The time for equitable distribution of the benefits of Missouri River and equitable sharing of water shortages is now.

There is no question that any of the five proposed alternatives is marked improvement over the current water control plan. The results of the economic and environmental studies clearly illustrate how the Missouri River and the reservoirs can be better managed to benefit us, our children and the entire Missouri River Basin. If we manage these resources intelligently, realization of their potential can benefit all. On behalf of the people of North Dakota, and the Missouri River Basin, I submit it is time for change on the Missouri River.

Sincerely,

John Hoeven
Governor

38:04:49

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U.S. Fish and Wildlife Service
Public Comments
Missouri River Master Manual Hearing
Bismarck, North Dakota, October 23, 2001

Good evening, my name is Allyn Sapa and I'm here this evening on behalf of the U.S. Fish and Wildlife Service to issue a brief statement on the Revised Draft Environmental Impact Statement for the Missouri River Master Water Control Manual. I'm also here to listen to the comments in person from citizens on this important issue.

The Service has primary authority for oversight of our nation's rarest animals under the Endangered Species Act. The Missouri River is home to the endangered pallid sturgeon and least tern, and the threatened piping plover. The decline of these species tells us that the river is not healthy for its native fish and wildlife, and that there needs to be a change in its management to restore the Missouri to a more naturally functioning river system. A healthy river provides wildlife habitat, supports fishing, and makes boating an attractive recreational activity.

Congress committed the Federal Government to preventing extinctions by requiring Federal agencies to use their authorities to conserve endangered and threatened species. During the last 12 years our agency has been working with the U. S. Army Corps of Engineers to modernize the management of the Missouri River to help stabilize and hopefully, begin to increase and recover populations of these vary rare animals. This

new approach was described recently in a document called the "Missouri River Biological Opinion," published in November 2000.

The biological opinion looks at the river as a system and outlines the status of these rare species, the effects of the current operation on them, and a reasonable and prudent alternative to the current operation that will not jeopardize their continued existence.

Our biological opinion is based on the best available science and includes nearly 500 scientific references. In addition, we've sought out 6 respected scientists – "big river specialists" – who confirmed the need to address flow management, as well as habitat restoration. Further, the Missouri River Natural Resources Committee, a group comprised of the state experts on Missouri River management, endorses the science in the opinion.

If you have read the RDEIS or summary document, you understand that the "GP alternatives" encompass the range of flows identified by the Service as necessary below Gavin's Point Dam to keep the listed species from being jeopardized. Our agency, and the Corps, also recognized the importance of some flexibility in management that would enable Missouri River managers to capitalize on existing water conditions to meet endangered species objectives without having to go through another 12-year process.

Other management changes identified in the biological opinion include a "spring rise" out

of Fort Peck Dam, an improved hatchery operation to assist declining pallid sturgeon populations, restoration of approximately 20% of the lost aquatic habitat in the lowest 1/3 of the river, intrasystem unbalancing of the three largest reservoirs, and acceptance of an adaptive management framework that would include improved overall monitoring of the river.

In closing, the Service supports the identified goal of the revised master manual - to manage the river to serve the contemporary needs of the Missouri River Basin and Nation. These needs include taking steps to ensure that threatened and endangered species are protected while maintaining many other socioeconomic benefits being provided by the operation of the Missouri River dams. The Service stands behind the science used in the opinion, and is confident that the operational changes identified in our opinion, and included in the RDEIS as GP alternatives will ensure that these rare species continue to be a part of the Missouri River's living wildlife legacy.

The Missouri River is a tremendous river, with a significant and revered heritage. Our influence has altered the river greatly. Changes are needed to modernize and restore health to the river – for the benefit of rare species and for people, too.

TESTIMONY PRESENTED TO THE US ARMY CORPS OF ENGINEERS ….. PUBLIC HEARING OF THE MISSOURI RIVER MASTER MANUAL REVIEW; OCT. 23, 2001

Gentlemen,

Welcome to Bismarck, North Dakota for this public meeting on the Revised Draft Environmental Impact Statement. My name is Ken Royse and I currently have the opportunity to serve on the Burleigh County Water Resource Board. Our County Water Resource Board is authorized by State Law to provide a vehicle for local grass roots management and development of our water resources. And in Burleigh County , as in the whole of North Dakota, there is no greater single water resource, nor any single natural resource, which has a greater impact on our lives and our economy and on our present standard of living and our future than the Missouri River.

In recent years our Board has taken a wider interest in the Missouri River. We are still concerned with the ever increasing volumes of sediment which are continually and constantly deposited, day by day and hour by hour, in our River. And we still believe that permitting and access to this River, functions controlled to a very large extent by the Corp, are cumbersome and burdensome and are processes which desperately need streamlining. But we now also have concerns which reflect a greater awareness of the value of the River to economic and recreational needs of our community and our State.

It is primarily the issues of economics and recreation which I want to offer testimony on today.

Our economy in North Dakota is based primarily on agriculture. We are a dry land farming State. There have been any number of studies which project a vast increase in economic benefits to lands and areas along the Missouri River if water can be accessed from that River for irrigation purposes. But in order for that to occur, the small farmers and the larger irrigation projects need assurance that there will be adequate levels and flows in the River. Neither a small farmer nor a large district can commit to expensive infrastructure---- intakes and pumps---- unless there is some assurance of a level within the River to construct those facilities.

In addition to agriculture, the State relies on tourism and recreation for economic stability. Fisherman from all over the nation come to our State to try their luck in our Missouri River, boaters and water-skiers flock to our River for the beauty and serenity it offers, and our citizens of all ages enjoy swimming and sunbathing along the many sandbars and beaches. To a large extent, economic stability and economic opportunity in North Dakota is tied directly to water levels in the River and in the Garrison and Oahe dams.

I understand the desire of our downstream neighbors to utilize water from this River for their needs in a fashion most advantageous to them and their barge traffic economy. In wet years, when there is too much water, we are asked to hold that water---not to release too fast--- not to increase flooding damages downstream. We are asked to do that even to our own detriment in the interests of our downstream neighbors.

And in the dry years, those same parties have no qualms of asking us for greater releases from the dams and out of the River. They ask this even though they are well aware of that such greater releases mean economic losses to our State to the extent of many millions of dollars.

The message I want to give the Corps in this testimony is simply that Burleigh County and North Dakota needs water in our upstream reservoirs. We need adequate reservoir levels for economic stability, we need it for our agricultural needs, we need it for our recreational needs. We need it for domestic and industrial development, we need it for power generation. We need our upstream water to maintain a healthy environment for riparian wildlife and for our fish populations. In contrast our downstream neighbors want low flows in times of flooding and higher flows in times of drought when it benefits them. They want to continue to have the river managed for navigation which equates to a huge Federal subsidy of their barge industry.

Thank you for the opportunity to provide these comments. I hope that while you are in Bismarck you will have the time to make a visit to our Missouri River. If you make that visit you will see damages caused by low river levels including erosion, land loss, and deposits of sediments.

STATEMENT TO CORPS OF ENGINEERS HEARING

RE: MISSOURI RIVER MASTER MANUAL
BISMARCK, ND, OCTOBER 23, 2001
ANDY MORK, CHAIRMAN, BOMMM JOINT BOARD

BOMMM is a Joint Water Resource Board authorized by North Dakota law. It is composed of the five counties adjacent to the Missouri River on the Garrison Dam to Lake Oahe reach. Its sole purpose was and is to protect and preserve the riparian land in this reach.

While we are primarily concerned with our immediate area, we know we are affected by the overall operation of the five main stem dams. We, therefore, offer the following comments on the proposed Master Water Control Mail options as stated in the August 2001 Revised Draft.

1. It is obvious that the Corps no longer controls the river for the greatest benefit to navigation, flood control, hydropower, water supply and recreation. It is now dictated by the Endangered Species Act through the Fish and Wildlife Service to prioritize the endangered species above all other purposes. There apparently are no benefit/cost requirements and the resulting huge costs above benefits are obvious. Some of the dollar costs are:

   a. Loss of hydro revenue by forcing high spring generation when power is less valuable.
   b. Loss to the navigation industry and to those it serves by curtailed navigation.
   c. Downstream flooding losses.
   d. Loss of hydro revenue at Ft. Peck by "dumping" 11,500 cfs over the top of the dam for six weeks.

Also of great concern are:

1. Increased bank erosion in the Garrison to Oahe reach during the high Oahe years.
2. Increased bank erosion below Ft. Peck due to the 23K cfs releases for six weeks.
3. Low Garrison to Oahe river level problems in the high Sakakawea years (such as we experienced in the summer of 2001 due to drought).

The statement on page 27 of the August 2001 Revised Draft that "bank erosion is a function of the total volume of water and not the distribution of that volume" is entirely false. I have conferred with several civil engineers and they agreed that the statement is incorrect or want to know more of how the Corps arrived at such a statement.

The fact is that bank erosion is an exponential function of the rate of water flows. For example, twice the flows can cause four times the erosion. Therefore, it is very important how water releases are made to reduce the bank erosion and the subsequent downstream delta such as the one now forming at Bismarck.

BOMMM strongly supports the 1825' minimum Sakakawea Lake level. Since recreation has become so important and since North Dakota gave more than any other state so the Pick-Sloan Project could be built, we are entitled to that!

Until the Garrison to Oahe banks are ~~fully~~ protected in the necessary locations we strongly object to the unbalanced dam level scheme due to the increased bank erosion during the high river level years. We also oppose the high Ft. Peck spring releases until those downstream banks are protected.

BOMMM does support the preservation of the endangered species when it can be accomplished in concert with the other purposes of the Project, but we do not believe they should have priority over all other uses and, certainly they should not be immune to benefit/cost evaluation.

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I am speaking to you not only as a conservationist, but also as a person who has spent countless days enjoying the Missouri River in North Dakota. On any given summer day in North Dakota, you can find many people enjoying an afternoon on a sandbar. I feel very fortunate that we live near a stretch of the Missouri River that has not been channelized and still contains sandbars. The river is capable of taking care of itself if we allow it to flow in the most natural way possible.

I am very disappointed that the Army Corps has decided not to endorse the recommendations of the US Fish and Wildlife Service as the preferred alternative to the master manual. The needs of an almost nonexistent barge industry are not nearly as important as the needs of fish, wildlife and people, all who use and depend on the Missouri River. However, I am pleased that the US Fish and Wildlife Service recommends a change from the current master manual and that the Army Corps of Engineers is releasing alternatives.

The current water control manual places the interests of the barge industry over the needs of fish, wildlife and people. This outdated master manual is jeopardizing the survival of the endangered pallid sturgeon, the endangered least tern and the threatened piping plover by providing a near steady flow to support barge traffic downstream rather than allowing the seasonal rise and fall of the river. A more natural hydrograph needs to be reinstated.

Of the six alternatives , only the GP2021 "Flexible Flow " alternative fully encompasses the flow recommendations in the Final Biological Opinion of the Fish and Wildlife Service.

According to the Corps' analysis, the "Flexible Flow alternative" option provides substantial fish and wildlife benefits in comparison to the current water control plan and the other alternatives identified in the RDEIS. It does not impact other uses of the river like floodplain farming, hydropower, [redacted] or flood control.

The river depends on changes in flow to complete the natural seasonal cycle that occurred before the dams were constructed. A split navigation season may not be a fix all solution to the restoration and recovery of the Missouri River but it is a very important first step. Opposing a river that flows in a more natural manner contradicts with our goals of conservation. We support the extensive study and recommendations of the US Fish and Wildlife Service.

The barge industry claims that you don't have to radically alter the flow of the river to create wildlife habitat. First of all, the river has already been radically altered to provide a steady flow of water to support the barge industry. Managing the river using the recommendations of the US Fish and Wildlife Service should not be considered a radical alteration since it brings us closer to living with a more natural river.

FINANCIAL STATEMENT OF CORPS PROPOSAL FOR MASTER MANUAL

1. **Loss of recreation, water supply value during low flows of Garrison to Oahe Reach** $_____.__
2. **Loss of hydro revenue due to Gavins Point spring releases when hydro power is less valuable** $_____.__
3. **Loss of revenue by the reduced navigation channel and those it serves** $_____.__
4. **Estimated downstream flooding losses** $_____.__
5. **Loss of Hydro revenue due to "dumping 11,500 cfs at Ft. Peck for six weeks** $_____.__
6. **Value of increased bank erosion below Ft. Peck due to high (23,500 cfs) releases** $_____.__

Total Revenue losses $_____

One option that I read about in the Omaha World Herald for restoring piping plover and least turn habitat below Gavins Point dam was to build sandbars. The idea of building man-made sandbars rather than allowing the river to create them naturally is disturbing. A natural sandbar is like a beautiful piece of sculptured art and the dynamics of a healthy sandbar are really quite complicated. Areas that do not have sandbars on the Missouri River should feel deprived. They provide a place to explore wind-swept sand dunes and wetland areas, all teaming with life.

We have nearly engineered the Missouri River to death. It seems that when we encounter an engineering problem, we want to fix it with another engineering project. We can help let nature take its course if we allow the river to flow more naturally.

The expense of maintaining the Missouri River to accommodate an insignificant amount of barge traffic does not justify the financial benefits that the barge industry generates. The barge industry is heavily subsidized and they do not mention this when they compare the costs of shipping on the river with other forms of freight. The expense of maintaining our river for this relatively small industry and the environmental cost of managing the Missouri River mainly for navigation are very high costs to all of us.

The needs of upstream states like North Dakota have been ignored for too long. It is time to update the master manual for the Missouri River. Please select the GP2021"flexible flow" alternative, over the current water control manual.

Jonathan Bry

NEW TOWN, NORTH DAKOTA TRANSCRIPT— OCTOBER 24, 2001

U.S. ARMY CORPS OF ENGINEERS, OMAHA DISTRICT
MISSOURI RIVER BASIN WATER MANAGEMENT DIVISION

In Re: Proposed Changes to the
Guidelines for the Missouri River
Mainstem Systems Operation

TRANSCRIPT OF

PUBLIC HEARING

Taken At
Four Bears Community Center
New Town, North Dakota
October 24, 2001

BEFORE COL. DAVID A. FASTABEND
NORTHWESTERN DIVISION COMMANDER

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(The proceedings herein were had and made of record, commencing at 7:10 p.m., Wednesday, October 24, 2001, as follows:)

(Videotape played and introduction given by Col. Fastabend.)

COL. FASTABEND: I'll now call the names of those who submitted cards beginning with Chairman Tex Hall.

MR. HALL: Once again, thank you, Colonel Fastabend. Before I begin my comments, I would like to call on one of our spiritual leaders, one of our elders in our community of the Mandan, Hidatsa and Arikara Nation, Ted Balman, Jr., to do an opening prayer. When we talk about the river, we talk about our Grandfather, we also talk about our ancestors, and we will show in the power point presentation the devastation of the flood of the Garrison Dam 50 years ago and how our Tribe has come from then to where we're at today. And then after that I would like to call on the councilman from Four Bears, Marcus Wells, Jr., to give a welcome.

So with that I would call on Ted Balman, Jr., to do an opening prayer and then to talk about our Grandfather, the Missouri River.

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(Prayer given.)

MR. HALL: Next, I would call on Marcus Wells, Jr.

MR. WELLS: Good evening. My name is Marcus Wells, Jr. I am a Four Bears council representative, tribal business councilman. I would like to welcome you here tonight and make one short comment about this session and recordkeeping, I guess, is that I hope that we can get back on the table to get back those individual landowners from the allotted landowners of the Tribe. What comes to them in '92 was taken back almost overnight with the Earthquake Bill. And I know a family out here in Four Bears who are still living who were happy one day and sad the next day because of the McKenzie Bay area, they had land again promised to them, given back, which was taken away. So hopefully one day that can happen. I know there's powers that be that have a lot to do with that, but as a councilman I would like to speak on their behalf. I don't see them here tonight, but it's the Smith family.

Tribal 38

In addition to that, what I would like to say on behalf of the elders who are here is that they suffered at one point in time and didn't

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receive as much attention as the pallid sturgeon does today. I was reading the handout here tonight. There's a lot of issues that they want to make right with the wildlife and different things, but when it was time for us to move 50-some odd years ago, we had to move. I would like to say that. Thank you, Chairman Hall, for giving me a few minutes this evening.

Tribal 23

MR. HALL: I would like to introduce a couple of my staff people, Colonel, members of the Corps. Richard Mayer will give the brief power point presentation. I recognize our Master Manual team. We have a Master Manual team. If you would please stand and I will recognize you. Elgin Crows Breast, Pemina Yellow Bird, Linda Emery, John Danks. Who else? And we have Patti Jo Thomas and Ed Hall. Our Tribal Missouri River Master Manual team formulated our comments and put together our presentation.

So with that I will call on Richard Mayer to begin our power point. I will submit a copy for the record, my comments. I think I have some extra ones here. I'm trying not to waste paper so I will pass those out. Our tribal attorney, Mr. Dan Israel, has flown in from Phoenix, Arizona, and

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will also provide comments.

With that, Rich, we'll begin. For the record, my name is Red Point. Spell that correctly for the record. It's my Indian name. My English name is Tex Hall, chairman of the Mandan, Hidatsa and Arikara Nation.

As you can see from our logo, we have been established by federal treaty in 1851, so with our tribes we are a sovereign tribal government. And as I mentioned earlier, Colonel Fastabend, tribes are in our country, in the United States, the only country in the world that has three systems of government: The federal government, which you represent; the state government, which Governor Hoeven represented yesterday; and tribal government, which we are representing today. So it's a very unique democratic system with a three-tiered federal system that we speak on behalf of our nation tonight.

So with that, Richard, you can take on the next slide.

We were established by treaty in 1851. You can see that we covered many states, and we're down into -- all the way from the present location up towards the top, which we border on, we go past

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the Knife River in Beulah and Hazen and over to the Missouri, down to the Heart south of Bismarck and Mandan, and then down into South Dakota to the edge of the Black Hills, up along the Powder River in Wyoming and over to the Yellowstone in Montana and then back up north to our present-day Fort Berthold Indian Reservation. So we went from 12 and a half million acres set aside and later become four separate states into our present day. You can see on the bottom, the 1910 Homestead Act sold surplus reservation land to the Indian homesteaders and further emaciated the Tribe's total acreage, so today we are on the Indian reservation. So, Rich, go on to the next slide.

You can see from this picture, this picture really represents trauma and dramatic grief that happened in 1948. We are probably the only tribe in this country that was completely devastated by one of these mainstem dams. The six dams along Fort Peck all the way down to Gavins Point where the Garrison Dam impacted the Three Affiliated Tribes.

Our chairman at that time, George Gillette, vice chairman, was my grandfather, Jim Hall, in the background and the rest of the tribal

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council and you have a representative from the Army Corps of Engineers to the left and one from the Department of the Interior that signed the bill that forced the dam upon our Tribe and completely devastated not just a few -- not just a few farms, an entire capital of Elbow Woods with all the infrastructure, including the hospital, all the economic development projects, a comprehensive boarding school, all of the housing, all the water and sewer, a complete capital and, further, 156,000 acres of an entire bottomland in class I and class II soil.

So, again, Colonel Fastabend, you will not find another Tribe that had complete devastation as the Three Affiliated Tribes in the Mandan, Hidatsa and Arikara Nation. This picture has been used by sociologists and professors that talk about the negative relationship that the United States Government has had with Indian tribes, and this is the position that we have come from.

Tribal 23

The next slide, Richard. Here you have one of our tribal elders in 1946, Mr. Thomas Spotted Wolf, who said to the Corps when the Tribe was trying to negotiate with the Corps at that time when the Tribe was trying to say we have a

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resolution. The resolution says we don't want the dam here. Research has shown that the dam could have been placed somewhere else and had less detrimental impact.

Imagine if we could have done an environmental assessment at that point in time in 1948 what it would show. Rather than negotiate with the tribes, it was forced, the dam was forced, and as a result this famous quote, You have come to destroy us. When the negotiations ceased, negotiations did not continue, he pointed his finger at a representative from the Army Corps of Engineers and stated very eloquently in his own way.

Next slide. This is a picture of our capital, Elbow Woods, as the waters were coming up in 1952. In 1953 all the people were forced to relocate, and at that point in time, as Councilman Wells indicated, the families, the tribes still had a resolution opposing it and the Corps was moving towards this relocation, this forced relocation, and it was one of the worst relocation methods that the United States Government had bestowed upon anybody because there really was no relocation plan, it was forced removal, get out, the water is

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coming, it's 1953, get on your tractor, get on the move, find a house, relocate, find a new homestead, find a new log cabin, find a new place to live or you will drown.

Next slide, please. This is the -- this picture is of the Four Bears Bridge. I also want to note for the record that Ed Hall is the project manager for our new Four Bears Bridge, and so he will make comments later on, Colonel Fastabend, about the possible impact and expense of putting the bridge together, that if the lake levels are lower, it will be cheaper to build the bridge.

But the old bridge which you see there, the middle span is right here, and this is in 1952. This bridge was designed in 1934. It was built 22 feet in width. It was built for Model As and Model Ts. We have had that since 1934. Lo and behold, sometimes Congress works in mysterious ways and the United States Government works in mysterious ways, we got the funding to do that. So this is a very historic bridge. You can see the beautiful bottomlands in Elbow Woods right there. The bridge is close to Elbow Woods. You can see all the cottonwood trees. We call the bridge today a bridge without a home because the Army Corps of

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Engineers is playing horseshoe on the bridge when we're trying to get new money, so we had to go directly to Congress. The Army Corps said we're not in the business of building bridges anymore. We did it in 1934. We dismantled it in 1953, but we're not in the business of building bridges, you have to go on your own, so we did.

Next slide, please. Colonel Fastabend, representatives of the Corps, this is the midwest, we like to see as the Great Plains region of tribes, and there are 16 tribes that are along the river or close to the river in North Dakota, South Dakota and Nebraska, and we work in a very cohesive manner. The tribes are all unified in making sure that the Master Manual reflects tribal concerns, and we will get into those comments more specifically later on.

Tribal 39

The next slide, please. This is a map of North Dakota and South Dakota. There is one thing I want to point out for the record, Colonel Fastabend, and that's with the Mandan, Hidatsa and Arikara Nation. When Lewis and Clark came up the river 200 years ago approximately, in 1804, President Jefferson said in 1803, Captain Lewis, your mission is to find a passageway to the

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Northwest through this area that the Mandan, Hidatsa and Arikara villages occupied. He said that because we had a huge trade network that was right here on the Knife River Indian Village just south of our present location, approximately 17 miles to the south. You literally had a city on the prairie. There were hundreds of tribes. Our tribes were early traders on the river. We had flint, so we used that for weapons and tools. We traded that flint. You could find pottery from Mexico to the Southwest. Our trade network went out to the Pacific Northwest, all the way out to the Hudson Bay. So our tribes were here literally thousands of years before either North Dakota or South Dakota became states in 1889. And so, clearly, the uniqueness of the United States Congress and Government, these lands that you see before you are lands that are under the complete jurisdiction and sovereignty of these sovereign tribes that you see listed here.

But my final point on this map is that the Mandan, Hidatsa and Arikara Nation went down into South Dakota and down into Nebraska. So when we talk about the 1999 Water Resources Development Act, specifically Title VI of that Act, there are

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over 3,000 sites down into South Dakota and some in Nebraska, but into South Dakota. Many members of the Army Corps of Engineers do not know that the Tribe has 3,000 known sites down there and that we are looking to preserve these cultural and sacred sites, and the Cultural Resource Protection Office is most assuredly working on this issue. So our tribes are clearly much further down in this area.

CR 24

Next slide, please. And here you have the map of North Dakota and you have the four reservations, which include the Fort Berthold, the Turtle Mountain towards the top, the Turtle Mountain Band of Chippewa, the Spirit Lake Sioux Nation around Devils Lake and the Standing Rock Sioux Nation down south of Bismarck there, and over to the far right we have the Sisseton Wahpeton, so they come into North Dakota just a little bit, as well.

So we thank the Corps for the meeting that they held with Rose and Rick. We held a meeting in Bismarck at the Civic Center. We thank the Corps for having a preliminary meeting to address the Tribe's concerns at that time, also. We really appreciate that meeting in terms of talking about the Master Manual, talking about the impact of the

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tribes. It really helped us as we are preparing our comments today. So we thank the Army Corps of Engineers particularly for helping us do that.

Next slide, please. Right here, and correct me if I'm wrong, this is a map of all of the known -- this is the land description. Green is the Corps of Engineers' land and the brown is the tribal land. And let me say this for the record, Colonel Fastabend, that the Tribe, as Marcus Wells, Jr., indicated his concerns about leaving lakeshore lands. The Tribe is submitting legislation to Senator Kent Conrad for the return of lakeshore lands that most assuredly the Corps has held as excess property. When they flooded us 50 years ago, they took too much land, this is excess property. Other particular tribes and other states have received lands. Specifically South Dakota has received 92,000 acres. The Lower Brule and Sheyenne River Sioux Tribe have received hundreds of acres, as well.

Tribal 38

We had our legislation in 1992 and their legislation happened in 1999, they're getting their lakeshore back and we are not getting our lakeshore back. So we have been urging the Army Corps of Engineers to do an administrative transfer, it is

Legal 88

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not occurring, so we have to look to legislation to get that accomplished. But as you can see, Garrison impacted Fort Berthold right in the middle, right in the middle and heart of our reservation and flooded 556,000 acres.

Legal 88 (con't)

Next slide, please. This is just a closeup of the northern part of the reservation. And there are a lot of recreation sites, and we will work towards trying to meet all concerns and we are looking for the Corps to favorably approve of the land transfer back to the Three Affiliated Tribes.

Next slide, please. This is a map of the Four Bears Park area. The reason I mention this slide is because back about approximately ten years ago the Tribe received these lands of Four Bears through the administrative transfer process. And I might also add this slide does not show the issue there was land given back to the Three Affiliated Tribes by the Army Corps of Engineers through the administrative land process, which they do not do for the rest of the lakeshore. So today we're forced to look back to legislation.

Legal 89

Next slide. On this particular slide we're showing this is Crows Fly Butte. This is a

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real significant butte right over here to the west. You can see the erosion. The erosion that is cutting away this very significant Crows Fly Butte. It was named after one of our chiefs, Chief Crows Fly. And Chief Crows Fly lived back in the 1800s and resisted the reservation life and led a lot of the people of the Hidatsa away to Fort Union and across the Yellowstone and hunted the buffalo. They refused the reservation life. Clearly we feel this is one -- this is a butte that is worth preserving. We want to preserve the very significant butte. You can see where the erosion needs bank stabilization. We need funding to do that. This is another shot of this. Again, if we don't put appropriate bank stabilization, we will lose this very significant butte.

ErSd 20

Next slide, please. Right here, this is over on the eastern segment of Fort Berthold. You can see this is a rock formation. This was used for the tribes, back then used and they still use it today. Everything is passed down through world history. This is probably the sundance area or a spiritual ceremony. These would probably be in a circular formation used for spiritual purposes. They were used for prayer, they were used for

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fasting and all of those things. And, again, these are left unprotected and we're very concerned that the Corps needs to protect these. Or what we would like is the Corps to contract with the Tribe for us to manage them.

We're very proud of our Cultural Protection Office. We're very proud of our Game and Fish Office. We're a sophisticated tribe. We take pride in the fact that 50 years ago we demonstrated we're very strong and our population is very strong. The smallpox in 1837 killed our Chief Four Bears. But we have our language, Mandan, Hidatsa, Arikara in our curriculum, we have our elders organization. John Danks here is a member of the elders organization. And the elders organization is taking a very active role in taking the lead for traditions, for language and preservation. I'm very proud of that fact our Tribe has the sophistication to protect these sites if we're given the opportunity. We also have -- I see Paul Danks back there. We have Richard Mayer who put together this slide, so we can track these areas that we need to safeguard, we can take care of.

Next slide, please. This is another

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example on the eastern side of our reservation of again a droppage in the lake where we have somebody that's walking around looking at the erosion. You can see that, again, bank stabilization. We feel we're very short-funded in not only bank stabilization, but also the protection of our cultural sites and of our historical sites.

Next slide, please. I believe this is the last one, the last slide. Again, this is Fort Berthold, and these are approximately 700 single sites that you see. We have got more sites down in South Dakota, but these are 700 of our known sites that we have. There's over 3,000 sites here. There's over 3,000 sites here on Fort Berthold. These are 700 that are categorized right here. And you can see the impact, as I mentioned in my opening comments, the devastation of the Garrison Dam was the worst at Fort Berthold of any Indian reservation in the United States. And so most definitely these sacred sites are at risk. They are at risk with the advent of the Lewis and Clark bicentennial where they project 30 million visitors to come from St. Louis, we feel many are going to stop here because Sakakawea was here, she was a member of the Hidatsa Tribe, and people will want

Tribal 24, 26
Other 148

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to stop and see these things. But we're concerned about possible looting because it is occurring today, Colonel. There is looting occurring today, and, again, we want to look to co-manage these issues. Rather than sit here and point fingers at the Corps or the Corps can point fingers at the Tribe, we want to work in a partnership to help co-manage today so that tomorrow these known sites will be protected in perpetuity.

So that is the end of our slides. Thank you very much, Richard, for that.

Then I have my comments right here and I'll just read them for the record. I'll be as quick as I can.

On behalf of the people of the Mandan, Hidatsa and Arikara Nation, I welcome the Army Corps of Engineers to our homelands. The Three Affiliated Tribes was established in 1851 by the Fort Laramie Treaty. According to our Constitution and the United States Government, treaties are the supreme law of the land and we as a treaty tribe are considered sovereign nations. As chairman of a sovereign nation, I welcome this opportunity to provide comments on the draft environmental impact statement for the Master Manual for control of the

Tribal 17

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Missouri River. We will be providing very detailed comments on the draft environmental impact statement prior to February 28, 2002, the deadline for receiving comments.

Tonight I would like to comment on several concerns that tribes have and how the Master Manual will impact these concerns. In particular, I want to stress that the river is a trust asset and the Army Corps of Engineers as a federal agency is a trustee. We need joint management of the river. The Mandan, Hidatsa and Arikara Nation is prepared to work cooperatively with the Army Corps of Engineers on management of the river and on the following subject matters.

1. Government-to-government consultation. This is absolutely essential. Consultation with tribal nations, according to Presidential Executive Order 13175, is vital to development of the Master Manual. Prior to the finalization of the Master Manual, all tribal nations along the river should be provided with in-depth consultation about how the final Master Manual will be constructed. The Mandan, Hidatsa and Arikara people particularly have been adversely affected by the activities of the Army Corps in the

Other 305

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past. Our reservation, our homelands were displaced by the building of the Garrison Dam.

2. Recognition of the Winters Doctrine, which has reserved water rights for the Tribes from the river. Our reserved water rights under the Winters Doctrine must be acknowledged. The final EIS must recognize this before the Master Manual is finished. In recognition of this doctrine, the MHA Nation is ready to act collaboratively with the Army Corps on how the river, specifically our water rights, are to be managed.

Legal 90

3. Protection of economic activity along the river. The draft EIS must consider the effects of the various alternative flow schedules on the economic well-being of the MHA Nation; for example, how the water levels will impact the various economic development plans we have for the Four Bears Casino and Lodge and other tribal businesses. Remember, tribes, as well as states and private enterprises, have economic interests in the flow of the river.

Tribal 40

4. Indian trust assets. The United States has a trust responsibility to protect and maintain rights reserved by or granted to American Indian tribes or individuals. When an Indian trust

Legal 91

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asset has been impacted by a federal project such as trust lands, mineral rights, cultural resources, water rights, or hunting and fishing rights, then the federal agency in its action document must analyze those interests, the adverse impacts, and set forth appropriate mitigation and/or compensation commitments. We are ready to work again collaboratively with the Army Corps of Engineers to mitigate the following:

Lake levels at Sakakawea and Oahe have dropped up to 12 feet, particularly in response to low precipitation in the Missouri Basin over the last several years. This substantial drop has also been caused by the disproportionate role given by the Corps to navigation in the lower Missouri River.

Nav 51

The dropping of the lake levels deprives the tribes and their members and nonIndian business partners of the tribes full and unconditional access to these important reservoirs.

The lake dropping also creates a substantial scar to the land and waters and takes away from the ongoing efforts of tribes to enhance our recreation opportunities, to protect historic cultural properties, and to restore endangered

Tribal 41
CR 17

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fish, native fish and aquatic and terrestrial habitat.

5. Environmental justice claims.

Environmental justice issues evolve out of Executive Order 12898 dated February 11, 1994. The order provides that a federal agency shall make achieving environmental justice part of its mission by identifying and addressing as appropriate disproportionately high and adverse human health and environmental effects of its programs. Environmental justice includes any adverse effect on minority and low-income populations. In the Missouri River, as Congress expends millions of dollars to recover endangered species, restore native fish, aquatic and terrestrial habitat, cultural resources and river economies, environmental justice requires a review of the availability of those federal benefits to minority and low-income households and appropriate follow-through commitments.

Legal 92

When the Garrison Dam was constructed by the Corps, we were relocated from the rich, fertile agricultural bottomlands to grasslands not suited for our agricultural traditions.

Lake Sakakawea created by the Garrison Dam

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is a long lake and has virtually eliminated meandering of the upper Missouri River, as well as the flood lands, wetlands, and fish and game central to the Tribe's way of life. In their place has emerged over time noxious weeds that are endemic to the reservoir area.

The lands adjacent to the reservoir are barren and have very few of the wetland characteristics that existed prior to the construction of the Garrison Dam.

6. United States Constitution and Equal Protection Clause. The Draft Master Manual EIS fails to adequately set forth the Indian trust assets and environmental justice concerns of the Three Affiliated Tribes. Moreover, to the extent that the Master Manual draft EIS relies upon tribal input and tribal documentation as set forth in Volume II, it violates the equal protection clause of the U.S. Constitution. Specifically, the Corps has elected to expend it funds to describe fisheries, flows, navigation, power and other socioeconomic concerns and included them in Volume I of the draft. But when it comes to setting forth the tribal concerns relating to the Indian trust assets and environmental justice, the Corps,

Legal 93

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notwithstanding repeated requests from the Tribes, has relied upon the Tribes, themselves, to provide the documentation. Because there is no rational basis for this distinction, the Corps is violating the equal protection clause of the United States Constitution.

To correct this constitutional deficiency and to comply with the contemporary Council on Environmental Quality requirements, the Corps in its final EIS should at its expense specifically address Indian trust assets and environmental justice concerns for those tribes whose reservations have been adversely affected by the Missouri River operations.

Other 269

And, finally, 7. Protection of cultural sites. Changing the flows along the river under several of the preferred alternatives presented by the Army Corps following the issuance of the Biological Opinion will most likely create additional erosion along the shores of the upper three reservoirs. These reservoirs are projected to be the reservoirs that will provide the flow necessary to implement the preservation of economic activities along the river and to provide protection of endangered species. The analysis of

Tribal 40
CR 17

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these changes must include complete studies of how they will affect our cultural sites along the river. And I would like to put in that study, because in Bismarck there was discussion -- I think it was just -- what was that discussion about the wave lap. The wave lap along the bank was the formula that was used for cultural protection, and we feel there are many other areas with more in-depth formulas that should be adopted for this. The analysis of these changes must include complete studies of how they will affect our cultural sites along the river and how any damage to our sites will be mitigated or prevented altogether. Under the Native American Graves Protection and Repatriation Act, to allow such sites to be eroded away or left unprotected is unacceptable. Protection of these sites (the vast majority of which are associated with the Mandan, Hidatsa and Arikara) needs to be the subject of lengthy review within the Master Manual.

Substantial government-to-government consultation should be referenced not just for cultural site protection, but for all phases of the Master Manual, itself.

And one final comment, as well, Colonel.

Other 306

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Some of the ranchers that could not be here today indicated to me that when the lake levels drop -- when the lake levels drop, it tears all the fencing away. To keep their cattle from going into the river, they have to fence off, the water goes up, drops the lake levels, rips all the fences down. Not only do noxious weed comes in, but the cattle go into the river and go through bogs and many times -- one rancher told me he lost seven head of cattle, another one told me he lost four head of cattle, went through the bottom. And one of the ranchers mentioned somewhere in South Dakota there's a tribe that the Army Corps of Engineers had looked to getting some funding for refencing when the lake levels go back and forth in order to put up new fence.

Tribal 42

Other 194

That's what some of the representatives of the Corps did with the tribe down there. So I ask that more as a request than a comment, that if that is the case, that the Three Affiliated be included in something like that because as you can see on the map, the lake is right in the middle, so we have fencing on both sides, top side, bottom side and all directions. We also have over a hundred range units and agriculture is a primary economic

Tribal 42

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base for our Tribe.

So with that I want to thank you for again -- I want to recognize Colonel Fastabend. He is the highest ranking official in the Army Corps of Engineers, second person. General Strock who was at Fort Berthold, he was here, General Strock was at Fort Berthold, but it didn't take you very long to be here. We very much appreciate your presence. Colonel, we are very honored to have you in our presence and all your complete staff to work with us.

COL. FASTABEND: Thank you, Chairman Hall.

Marcus Wells, do you want to make another statement, or was your earlier statement all you needed? Mr. Crows Breast.

MR. CROWS BREAST: Good evening. My name is Elgin Crows Breast. The reason I did that, the reason I shook your hand, is I welcome you here. It's quite ironic 55 years ago, my great-grandfather stood before the Army Corps of Engineers and said this. I stand before you today. Instead of saying destroy, you have come to help us, all our issues, all the things we stand for as Indian people.

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I recall my Grandma many years ago said, come here, Son, come with me, go for a ride. We went on this flat, the water was backing up, you could see it coming, just barely moving. She looked at the water, she started crying. That's many memories she had down there on the water just like a lot of our elders, a lot of what went on before us.

The social and economic impacts of our Tribe were devastated, not to mention our cultural sites. Us tribes, no matter where we're at, we understand the natural process of the water when it comes to Indian ceremonies. We understand that water. We know what that water is about. We know what that water can do. And we know we have to have respect for that water. I've seen in my time ceremonies where older men, older women were indoctrinated in the Indian way with that water.

Tribal 23

We find all of the scientific technology. I've seen the rains come and some of our elders stand there and split those storms. I've seen those. So we know that the water is something, it's a spirit that moves. It's got its own mind. You can't stop it. It's going to go wherever it wants to go is what I have been told.

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Today we talk about that water. There's many issues in that water. There's water rights. There's irrigation. There's quantification. And in the future way 50 years from now when our Tribe multiplies by maybe 20, 30 thousand and most of us will be gone, that water is still going to be there.

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I don't expect you to understand what I'm saying when it comes to the Tribes, Indian people, but all we know is that water is life. From that water grows a lot of things. My friend, this man over here from Western Area Power Administration, in an annual year the dams make almost $700 million. That water flows through that land, that flows through our land, it goes through that dam and it turns those wheels to make that electricity, and that water, when you sell that electricity, it makes money. We have seen a small portion.

HPower 12

I was on the first council, the seven-man council in 1986-88, when we left our home to attend that meeting of committee affairs in Washington, D.C. We videotaped it. At that time the recommendations for our Tribe they said was $612 million, is what they justified for our Tribes. Through the years they whittled down to 149.2.

HPower 26

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$612 million is not enough to pay for what my Grandma felt in here as she looked over that water and seen her home go under and all the ancestors whose blood and bones are all over the area.

So at this time, Colonel, I would ask you as a member, as one of the former leaders of our Tribe, to dig deep inside your heart and find a way to help our people economically, socially, culturally, legally, environmentally. Help us. We have lost a lot. And we're barely making it back. I want to say thank you and I'll close here. Thank you very much.

Other 7

COL. FASTABEND: Thank you, Mr. Crows Breast.

MR. MOORE: John Danks.

MR. DANKS: Good evening. My name is John Danks. I'm a member of the Three Tribes. I'm a member of the elders organization and I was privileged to provide testimony to Senator Conrad about three weeks ago and now I want to repeat some of it here tonight for you.

The elders are very interested in getting the excess lands along Lake Sakakawea returned to them. We made that comment to Senator Conrad.

Legal 94

The elders are very interested in getting

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free power from Lake Sakakawea. There is a program where we can get reduced rates for power generated by the lake, but that program was never put in place for the tribal reservation. That program was put in place for municipalities and cities along throughout the area.

WAPA 14

When you're looking at the map that our chairman so ably presented to you, you see that this is the only reservation that has given its heart for flood control somewhere further south. We have given our absolute heart. And if you look at the research and the testimony, they refer to that research and that land as our economic engine, and we lost our economic engine.

Tribal 23, 43

I wonder, have you calculated the acres of class I and II land that the Corps flooded to achieve flood control? I heard you talking about millions and millions of acres of land you're trying to keep from flooding today. How many acres of land did you flood to build the dams? And I would like to echo the chairman's comment, had there been an environmental impact requirement way back then, maybe there wouldn't be a lake here today. I'm here to make those comments as an observation.

FC 23

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When the lake took our bottomland, it took large amounts of our coal deposits, it took all of our timber that we used for fire and for heat, and the free power would be a method to replace that.

Tribal 23

The other observation we have as elders is the lake has fluctuated too greatly. It's so high one year and the next year it's way down. We would like to see a little more stabilization.

Other 198, 307

I thank you for giving me this opportunity to speak to you tonight. Thank you.

COL. FASTABEND: Thank you, Mr. Danks.

MR. MOORE: Pemina Yellow Bird.

MS. YELLOW BIRD: Good evening. My name is Pemina Yellow Bird. I'm an enrolled member here at Three Affiliated Tribes and I work for my Tribe to protect and preserve our sacred and cultural sites, as well.

And about all I can add to all of the information you received so far is that since 1978 the Omaha District has spent just under $3 million for shoreline stabilization on lands within its district, yet every year almost $150 million is earned in hydropower from Garrison Dam alone. And that seems to me a very great disparity. Lots of money is being made off the dam that flooded the

CR 15

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bottomland, but nothing is being spent -- almost nothing is being spent to preserve and protect our sacred and cultural sites.

Our elder that offered the prayer talked a little bit about how much water means to us and how our people lived always along the Missouri River. The evidence of that is in dozens and dozens of earth lodge village sites, hunting territories, ceremonial sites, all of which are critically necessary to the continuity and survival of our people as a nation.

Tribal 23

You see because of this big reservoir we don't have any bottomlands left within our exterior boundaries. We have to leave our reservation to see bottomlands, to see our people's earth lodge villages. And even as we're speaking this evening, more and more of them have fallen into the water.

Our chairman has made a number of offers to go to Congress and assist in lobbying for increased funding for the shoreline stabilization, but there remains an unmet need for funding in the area of shoreline stabilization, and it has to be up to the Army Corps to take the initiative to ask for increased levels of funding so that our sites can be protected. And until that happens we're

Other 303

Tribal 15

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just going to be hearing the same old responses.

The revised draft environmental impact statement is weakest in its analysis of the impacts to our sacred and cultural sites. The issue of our sites needs to be raised at a key issue level within the Master Manual process. They are worthy of the same kinds of investigation and consideration as the fish and the birds and the water and the hydropower. And we have been working very hard with the Army Corps to protect these sites, and now it's time for that issue to receive the kind of consideration that it deserves.

Other 148

I say thanks to you and thanks for coming here to see us in our homelands.

COL. FASTABEND: Thank you, Miss Yellow Bird.

MR. MOORE: Bruce Engelhardt.

MR. ENGELHARDT: For the record, my name is Bruce Engelhardt. I'm with the State Water Commission. I'm here tonight representing Dale Frink, the state engineer.

Last night in Bismarck Governor Hoeven presented testimony describing North Dakota's position on the Master Manual review. Today I will briefly reiterate the same strong and clear message

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that North Dakota and adjoining states have been voicing for years. The Missouri River Master Manual must be changed to meet the contemporary needs of the basin and the time for this change is far past due.

Other 7, 198

The five mainstem dams authorized by the Flood Control Act of 1944 were constructed in 18 years. If the Master Manual revision is completed in 2003, it will have taken 14 years. This delay is unacceptable.

The Missouri River is of vital importance to the State of North Dakota for its various uses for hydropower, water supply, both for municipalities, rural people and industry. Irrigation, about 16 percent of the total land irrigated in North Dakota uses the Missouri River water. And for recreation, hundreds of thousands of residents of the state and visitors to the state recreate on the river, Lake Sakakawea and Lake Oahe.

The quality of the water in the Missouri River is also important to the state, both for municipal water supply and coldwater habitat. If the elevation of Lake Sakakawea falls below 1825 during mid to late summer, the reduced oxygen

WQ 14

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concentration puts the nationally acclaimed sports fishery of the big lake in serious jeopardy. Low lake levels also increase the risk to human health through the resuspension of sediment from the delta portions of the lake.

The cultural resources, as Chairman Hall mentioned, are also important to the state, as well as both the Three Affiliated Tribes and the Standing Rock Sioux Tribe. We feel they also further warrant the changes described in the alternatives in the Master Manual. Stable lake levels would result in fewer sites being impacted.

CR 27

The draft EIS supports change by the benefits outlined in the five alternatives. They improve conditions for endangered species and conserve water in the mainstem reservoirs during times of drought. Unbalancing the reservoirs and increasing releases at Fort Peck may provide benefits for the pallid sturgeon, least tern and piping plover. Conserving water in the reservoirs during dry periods improves conditions for fish survival and thus recreation, and translates into more head for hydropower. If these alternatives would have been in place during the drought of the late 1980s, Lake Sakakawea would have been four to

EnSp 8

EnSp 8
Fish 8

HPower 9

six feet higher, translating into far better fish habitat, more efficient hydropower and an overall improvement in the economy of the areas that border the Missouri River.

The drought conservation measures included in the five new alternatives are essentially those agreed to by seven of the eight Missouri River Basin Association member states. Strictly from North Dakota's standpoint, they don't go far enough, but they are likely the most equitable means of distributing hardship during drought and for that reason are supported by seven of the eight states within the basin, including North Dakota. These drought conservation measures proposed by the Missouri River Basin Association should be implemented as soon as possible and will be a vast improvement over the 40-year-old Master Manual.

Other 61, 198

In conclusion, I urge the Corps to adhere to its current schedule for completing the Master Manual revision process. The time for equitable distribution of the benefits of the Missouri River and equitable sharing of water shortages is now.

There is no question that any of the five proposed alternatives is a marked improvement over the current water control plan. The results of the

economic and environmental studies clearly illustrate how the Missouri River and the reservoirs can be better managed to benefit everyone in the basin. If we manage them intelligently, realization of their potential can benefit all. On behalf of the people of North Dakota and the Missouri River Basin, it is time for a change on the Missouri River. Thank you, Colonel.

Other 7

COL. FASTABEND: Thank you, Mr. Engelhardt.

MR. MOORE: Ed Hall.

MR. HALL: Thank you. My name is Edward Hall. I'm a member of the Tribe. And I would like to, first of all, make the comment on behalf of the Tribe and follow up on the comment the chairman made.

I know you have a very difficult task of balancing all of the interests in the dams, but we would like to ask you to consider one more. You know we're in the process of replacing the bridge across that you probably came across here, the narrow bridge, and you saw the picture of the original bridge that was moved up here.

Other 308

We're working with the North Dakota State

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Highway Department and consultant firms to replace that bridge with a new bridge. We have several design options that we're looking at and we hope that we can come up with the -- what you might call a bridge with some excellence to it that will add to our economy here in the future.

But one of the things to do that, we're always working with a tight budget. But in talking with the consultants, and so forth, it would probably save us quite a bit of money if we could somehow write a formula to balance the water level in the middle dam here so that during the construction season the water level is as low as possible. My understanding is that working with the footings, and so forth, in the deep water, the depth of that water increases the cost by quite a bit. And I think it would really be helpful. And I know somebody -- your engineers and your statisticians and mathematicians somehow with those gates, if they would look at it and see if they can somehow balance upstream or downstream or whatever, but try to keep the level of Garrison as low as possible through two construction seasons. We hope that construction will start in the spring of 2003 and it will be completed in the fall of 2004.

Other 308

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So if that is possible, we would like to make that request. We know it's difficult, but if it's possible, it could save us a lot of money. And if we could have some plan that says, yes, that's possible when we go to bid, it will make a big difference in the bid price. But if the contractor has to bid that bridge without any assurance, he's going to bid the maximum. So that would be one request.

Other 308

COL. FASTABEND: Mr. Hall, what's the time schedule for your bid process? Do you know that?

MR. HALL: Well, we hope to open bids the fall of 2002 so that construction can start the spring of 2003. So it would be late 2002 when the bids are opened.

The other request I have on the part of the Tribe is, I think if you see on the shoreline, we have approximately 600 miles of shoreline, and if you go back to the rest of the pictures you've looked at, and so forth, of our acres of land that we had from the treaty on down to where we're at today, you can see that it seems like every time we dealt with the federal government and Congress, that they took economic resources. The first one, they took us down from our land base, you can hold

Tribal 43

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it right there, we lost our land till they brought us down to this reservation here you see today. So everything they take from us is our economic base.

And if you look at the light area there up in the upper right-hand corner, that white area that's in the reservation boundary. When I was a kid, I grew up under the water down there south about in the middle of the reservation, and I always assumed that that area, that line there, that was our reservation boundary because that's where we had the red steel posts and barbed wire fence, and we always assumed that was our reservation boundary. It wasn't until later when one of our enrolled members became an attorney and researched this that he found that when they opened that white area up for homesteading, that they did not officially change our reservation boundary. So now we have a reservation boundary that goes up around that white area, but you know which creates a heck of a jurisdictional issue, and so forth.

But when we were down -- you can imagine, that's all farmland. That's the best farmland in the country there. So when they opened that up for homesteading, they took our economic base away from us again.

Legal 95

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Now, the next step, when they took that fence down there along the homestead area, our economy -- we lived off the land, of course, but most of us had horses. We didn't run cattle. We had horses. But I can remember as a kid that fence there was along the farmland and the farmers complained to the Bureau of Indian Affairs that the Indian horses were getting into their fields along there. So an order came out you guys sell your horses, so we had horse roundups and we drove horses up there and sold horses. So we lost that economic base.

What I'm getting at, now we have 600 miles of shoreline. We're down to that now. That could be an economic base for us, and that's why it's so important that we get this shoreline back. But if we get it back, what do we do with it? We look at it as an economic resource for future economic development in tourism. If we get this bridge and we want to take advantage of future tourism, we have that 600 miles of shoreline, and if we can do a proper plan in development of it so that people want to come here and enjoy the shoreline, I think we can use it.

But I guess what we would ask is that the

Tribal 23

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Corps work with us, give us some technical assistance and work with us to develop our parks and recreation areas along that shoreline. We would like to make them the best recreation areas in the country. I think when you look at a regional scale, this is the best spot in the country. We would like to make it that. But we need to develop our parks and recreation areas so that we maintain them and we keep them nice for our future generations. We could use some help there.

The third item that I would like to make a request on is not from the Tribe, but it's from the Memorial Congregational Church here on the reservation located in Parshall.

One of the items that we haven't talked about much, hasn't come up, is when we were flooded out, we had to move our graveyards, we had to move our dead. And that is an item that really hasn't received much attention. But I know I'll give you one example. Down at the Elbow Woods there we had the Memorial Congregational Church, and that was the first church where Christianity was brought to the reservation, a church was built. So that's kind of a historic building. It was moved to what they call the deep water area. Okay. And the

Tribal 23

Other 148

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cemeteries were moved. And that was quite another process where people had signed up and they said where they wanted their graves moved to, what cemetery. And as a young man, I worked for a contractor moving those graves. So I know a little bit about how they were moved and it wasn't all that good. But right now they moved them up there and a lot of the people that had their family buried there, they moved them there, but they couldn't move there to make a living, they had to move away. So what we have is a lot of graves there where the families that moved away and we don't have organized cemeteries like you have other places, so there's no way of maintaining those cemeteries. So that's quite a job.

But the thing that we're asking is that we have -- that's 500 feet off the Lewis and Clark Trail, and we want to do some history of the church, and so forth, and the church is writing their history so that they can use the income from their sale of the history book to maintain that church as a historical site.

But what the Corps did, they put little four-by-four concrete posts as foot markers for graves, and over the last 40-some years those have

Other 148

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deteriorated so now the names that were on little plates on there and they have been bumped off by lawn mowers or whatever or they have just rusted out, you can't read them, we would like to have these markers replaced with a permanent marker because there's going to be a time coming before too long nobody will know whose grave it is. And I think that they deserve some permanent markers.

The other thing is our fence. Instead of placing a new fence there, they moved the old fence, and those items I think should be replaced. And so on behalf of the church, I will submit further testimony, but we just wanted to make that an item. And I'm sure that once this graveyard -- if we can get it done, I'm sure about fifteen other graveyards very similar on the reservation need the same thing. So thank you.

Tribal 23

Other 148, 309

COL. FASTABEND: Thank you, Mr. Hall.

MR. MOORE: Ted Balman.

MR. BALMAN: Good evening, Colonel, your staff. Thank you for coming to this meeting here. I guess one of the things I want to mention, also apologize for, is the lack of Indian participation here, but I think that my brother, the chairman, has pretty much led with confidence in presenting

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the very eloquent presentation here.

I point out in any society when people are in dire straits, get in a difficult situation, they come with arms and protest and whatnot, and I'm glad that we don't have a protest tonight, although I think that this issue is very important to the Indian people.

I'm one of the very few full-force Hidatsas on this reservation. Some of the Mandan I think that were full-force Mandan are no longer in existence today. We are pretty much a combination of the Three Affiliated Tribes today. I am also one of the very few that actually participated in dance in the old Sante Hall. I have experience in several people's moccasins. I grew up as a young person in the Lucky Mountain area, I moved to Mandaree. I walked the bottom of this great dam and experienced seeing all of the beauty there, and I can't -- words cannot actually express the beauty that was there, and this inclement weather, the weather was calm and sheltered, berries and whatnot, I guess a lot of this stuff has already been told. But my grandfather raised cattle and I remember him having four-year-old steers in the herd and he would butcher them as we needed them

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and also share in the community and the gatherings and the powwows.

As I mentioned, we are very resilient people. We have acclimated to this way of life through all our difficulties. At a very young age I was sent to a boarding school, and I'm sure that you've heard the horror stories of a boarding school, and I tell you they are true. We were prohibited from speaking our own language, and somehow or other I have retained my first language. I am fluent in the Hidatsa language and able to communicate with some of the elders in our community. I have also traveled throughout the country and I've also experienced the mainstream and the working class of this blue collar work, and in my experience, I was number 484 of employment in the big bed dam. I was there when they poured the first cement bucket and was there at the last one, when they loaded out some of the last equipment on the rail. So I'm familiar with the dams and how they were built and how the turbines and everything works.

And I also have had the experience of serving two terms in the tribal business council. And this is not the only talk we've had with the

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Corps of Engineers in regards to this taken area. I guess one of the real concerns in speaking tonight, a lot of issues haven't been covered, but I think one of the things is this shoreland. This shoreland is very important to our people. We talk about Indian self-determination, but one of the keys of Indian self-determination is going to be determined by this Corps land around the lake.

Tribal 23

Like I mentioned before, I have been around the country, I have been down in Colorado, and into various parts, I've seen the structure that has developed around these dams, and I can see what would happen in the future for us. And you devastated us very much. And I fear this deeply for the future generations of this reservation. We've lived our life, we've done what we could, but we have future generations to think about, where they're going to grow up, if they're going to be able to stay home, make a living, and I guess this is where my brothers made comments before about the future generation, the future generation, education, economic development, and I guess also we'll get working with other people in tourism.

Even hunting and fishing have become an issue in jurisdiction and the control. You see

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1 articles today in the paper, people up in arms
2 because they can't come on the reservation and
3 hunt. At the very same time, if I was to go to
4 Sioux Falls, New York or wherever and step on
5 somebody's lawn, what would they do to me? Keep
6 off the grass, they'll fine me if I stepped on
7 their lawn, but they seem very free to want to come
8 and explore every little corner that we have on the
9 reservation. And I think that needs to be somehow
10 controlled and regulated so that they don't dig up
11 our graves and look in our windows in our homes.
12 And I've seen situations in South Dakota where it
13 looked like the Continental Army walking across the
14 field with shotguns in pheasant season, going
15 across Corps land and adjacent to tribal land.
16 You know, some of these issues that are
17 very near and dear to us need to be addressed and
18 we need to work in cooperation. I think the Three
19 Affiliated Tribes has demonstrated from almost the
20 beginning of time where our heart is and where our
21 cooperation is, how we have taken in the Lewis and
22 Clark, but what do we get in return? You know,
23 take a look at that. We're cooperating and being a
24 good guy, they take your land away more and more
25 and more. There should be enough of that now.

Tribal 23

Tribal 23, 43

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1 You look at some of this water
2 development. The water from the Missouri running
3 clear into Minnesota, clear into Wyoming this way,
4 to the Black Hills, but yet people in the Three
5 Affiliated Tribes are without water and have to
6 haul water today to their homes.
7 I think there's a lot of these types of
8 things that we need to take a look at and work in
9 cooperation, and when we talk about Indian
10 self-determination, has taught Indian self-
11 determination and some of these tribes determined
12 where they're going.
13 I haven't really had time to prepare a
14 written statement, but I will put something
15 together for you and send it to you on some of the
16 items I have addressed tonight. And I hope that
17 this is a unified, true effort in working together,
18 not just, what you would say, something you have to
19 do, one of the items that is on the agenda of part
20 of a law we have to go by, we have to have a
21 meeting so let's go have a meeting and forget about
22 it later, whatever we say is forgotten. I hope
23 that's not the case. Thank you very much.
24 COL. FASTABEND: Thank you, Mr. Balman.
25 MR. MOORE: Dick Messerly.

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MR. MESSERLY: Thank you, Colonel. Dick Messerly, Garrison, North Dakota, the Garrison Chamber of Commerce.

The economic impact felt by Lake Sakakawea area communities, especially Garrison and New Town, goes with the level of the lake. If water levels are at a normal level, around 1840 feet mean sea level mark, then the economy of communities along the lake points to a substantial increase. When lake levels decline to a low point, economies show a drop in direct correlation to the lake level.

Rec 8, 10

This correlation has been tracked by the Garrison Chamber of Commerce through collecting data on taxable sales, Lake Sakakawea elevations and visitations at Fort Stevenson State Park, a major state park on the north shore of Lake Sakakawea, just three miles south of Garrison. These figures are not estimates, but are hard facts.

In the low water year of 1991 when levels of Lake Sakakawea plunged to a low of 1815.5 feet mean sea level, the visitation at Fort Stevenson State Park also reached a low of 59,000. The taxable sales in Garrison were also cut to about $7.5 million annually. In the year 1999 when water

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levels were more normal with a summer operating season of 1840 feet mean sea level, sales were 9.7 million and visitation at Fort Stevenson State Park was 124,000. This is over a $2 million increase from the low water year of 1991 for the Garrison community. Similar taxable sales correlations can be seen in the New Town figures. In 1991 New Town had taxable sales of 2.6 million. In 1999 taxable sales were 4 million.

As annual Lake Sakakawea elevations have been tracked and compared to taxable sales in Garrison and New Town and to visitation at Fort Stevenson State Park, starting with the year 1978 a pattern of impact becomes graphically obvious. Low lake levels, below 1830 feet mean sea level, mean lower taxable sales and lower park visitation. These translate into a tremendous negative economic impact to this area. I included them on these charts and the testimony, but I just want to show you graphically how the charts do track lake elevations, and also in this case the park visitations are dramatic and rise and fall at the same rate. On this same chart we have tracked the Garrison taxable sales, as well as the lake levels and they dramatically show the same rise and falls

Rec 8, 27

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of the lake levels.

According to the most recent RDEIS summary, navigation under the best conditions generates about $7 million annually. Under the five proposed alternatives to the current water control plan, navigation's benefit in a reduced flow year would be cut by about $2 million. If we add up the losses in 1991, a $3.5 million cut in taxable sales were the impacts on two towns on the north shore of Lake Sakakawea, that is, Garrison and New Town. What needs to be taken into account with these figures is that this is just the impact on two communities. If this figure were increased to include the low water impact to all the communities, resorts and recreation areas on the three upper reservoirs, the total would be staggering.

Rec 10, 27

Nav 9, 35

If the Corps of Engineers is going to follow through with its mission of meeting the contemporary needs of the basin while protecting its natural resources, then it's time for a change. The Corps studies have shown that a change in the Master Water Control Manual would have positive overall economic and environmental benefits. Seven of the eight basin states agree

Other 7, 198

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it's time for a change. When seven out of eight votes are cast in favor of an issue, that is a mandate of 88 percent favoring the change. The Corps has the mandate from the basin states to make a change. It is specifically time to stop being intimidated and bullied by a few officials from the State of Missouri.

In an AP story in The Minot Daily Newspaper dated September 30, 2001, State of Missouri Assistant Attorney General William Bryan is quoted as saying, "They want to control our water." "They" means North Dakota, South Dakota and Montana. First of all, Missouri River Basin water is not the State of Missouri's water. It's a valuable resource for the entire basin. Second, the six mainstem dams only collect on the average about one-third of the runoff into the Missouri River Basin. The other 60 percent runs into the Missouri River below Gavins Point Dam.

Other 7, 198

In this same story Commissioner Howard Wood from the State of Missouri is quoted as saying, "We don't want North Dakota to get the water either." It is time for the Corps of Engineers to take a stand against such contentious rhetoric like this from a few Missouri state

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officials and change the Master Manual so it reflects contemporary needs of the basin while protecting its natural resources. Garrison cannot afford to go through another drought on Lake Sakakawea under the current water control plan.

Garrison would favor summer elevations not dropping below 1830 feet mean sea level to support the fishery and keep Fort Stevenson State Park Marina fully operational and also raising the permanent pool by 20 feet. However, any of the proposed alternatives would be better than the current water control plan. Thank you.

Other 7, 198

COL. FASTABEND: Thank you, Mr. Messerly.

MR. MOORE: Mike Olson.

MR. OLSON: Good evening, Colonel Fastabend, Chairman Hall, tribal elders. My name is Mike Olson, and I'm here this evening on behalf of the U.S. Fish and Wildlife Service to issue a brief statement on the revised draft EIS for the Missouri River Master Water Control Manual. Perhaps more importantly, I'm also here this evening to listen to the important statements we've heard the first few hours of this hearing in person from the citizens in this part of the basin.

Other 204

The service has the primary authority for

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oversight of our nation's rarest plants under the Endangered Species Act. The Missouri River is home to the endangered pallid sturgeon, the least tern and the threatened piping plover. The decline of these species tells us that the river is not healthy for its native fish and wildlife and that there needs to be a change in its management to restore the Missouri to a more naturally functioning river system. A healthy river not only provides wildlife habitat, but also supports fishing and makes boating a more attractive recreational activity.

Congress committed the Federal Government to preventing extensions by requiring federal agencies to use their authorities to conserve endangered and threatened species. During the last 12 years our two agencies have been working together to modernize management of the Missouri River to help stabilize and hopefully begin to increase and recover populations of these very rare animals. This new approach was described recently in a document called the Missouri River Biological Opinion, published last November.

That opinion looks at the river as a system and outlines the status of these rare

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species, the effects of the current operation on them and, most importantly, a reasonable and prudent alternative to the current operation and not jeopardize these species' continued existence.

Perhaps if you've read the RDEIS or the summary document provided by the Corps, you understand that the GP alternatives encompass the range of flows identified by our agency as necessary below Gavins Point Dam to keep the listed species from being jeopardized. Our agency, and the Corps, also, recognize the importance of some flexibility in management that would enable the Missouri River managers to capitalize on existing water conditions to meet the endangered species objectives without having to go through another 12-year arduous process.

Other management changes identified in the biological opinion include a spring rise out of the Fort Peck Dam, an improved hatchery operation to assist declining pallid sturgeon populations, restoration of approximately 20 percent of the lost aquatic habitat in the lowest one-third of the river, infrasystem unbalancing of the reservoirs, and an acceptance of an adaptive management framework that would include improved overall

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monitoring of the river.

In closing, my agency supports the identified goal of the revised Master Manual to manage the river to serve the contemporary needs of the basin and nation. These needs include taking steps to ensure that threatened endangered species are protected while maintaining other socioeconomic benefits provided by the operation of this system. The service stands behind the science used in the opinion, and is confident that the operational changes identified and included in the RDEIS as GP alternatives will ensure that these rare species continue to be part of the Missouri River's living wildlife legacy.

As you said earlier, Colonel, the Missouri River is a tremendous river with a significant and revered heritage. Our influence has altered this great river, and changes are needed to modernize and restore health to the river for the benefit of rare species and for the citizens of the basin, as well. Thank you.

COL. FASTABEND: Thank you, Mr. Olson.

MR. MOORE: Jim Berkley.

MR. BERKLEY: Good evening. I'm here representing the U.S. Environmental Protection

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Agency. I'm not going to read exactly from my statement because I think that the contents makes a difference here.

What I would like to talk about in my statement is why EPA is involved, what their role is and some of the things we're doing relating to the master plan.

The EPA, one of the things -- one of our roles in the Master Manual process is we're required by law to review all environmental impact statements. In this review, it's an independent review and we will provide written comments and a rating or a grade on that Master Manual EIS.

The law requires us also to make our written comments available to the public, and when we do this, we're going to put them on our Website, and I have some cards with me, and if people are interested in the Website address and how to find that, I will be glad to talk to you after I make my comments or after the meeting is over.

When EPA reviews and rates an environmental impact statement, it focuses on two main areas. One is the degree of the environmental effects of the proposed action. The other is whether the environmental impact statement includes

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sufficient analysis needed for the public and decisionmaker to understand the impacts of the alternative plans under consideration.

So in this Master Manual -- in this addition of the EIS Master Manual, what we're going to do, because there is not a preferred alternative selected, is we will rate each one of the alternatives, so you'll see that in our review.

Other 310

A critical aspect of our responsibility is to assess whether or not the Corps has complied with all environmental laws, and to look at the regulations, to look at executive orders, and we'll look at laws such as the Endangered Species Act, Clean Water Act and Environmental Justice.

In our efforts during the past review of Master Manual documents, we have tried to work with the tribes to understand their concerns and their issues and then tried to express those concerns in our comments. And we are very much interested in working with the Three Affiliated Tribes to make sure we accurately express those concerns and understand them.

EPA is currently in the process of reviewing the RDEIS. Once our review is complete, our comments will be provided to the Corps in

written form, as I mentioned earlier, and will be on the Website. We understand that the issues and concerns are very complex. This is why we -- one of the reasons why we have teamed up with the Corps of Engineers and asked the National Academy of Sciences to provide an objective study by national experts on the state of the scientific information about the Missouri River ecosystem. The study will also recommend ways to improve scientific knowledge on the Missouri River infrasystem and approaches to adaptive management of the Missouri River and floodplain ecosystem.

We look forward to working with all the stakeholders and the tribes in the basin, and please feel free to contact me later on. Thank you.

COL. FASTABEND: Thank you, Mr. Berkley.

MR. MOORE: Susan Paulson.

MS. PAULSON: Good evening, Honorable Chairman Hall and to all my relatives and friends and all the people from the feds, whoever you guys are. My name is Susan Paulson and I'm a member of the Three Affiliated Tribes. I just came to listen, but since there wasn't many tribal members here, I feel an obligation to say a few words.

I'm here to acknowledge and to say a few words about my Grandfather, the Missouri River, the one that you're trying to manage. And I guess I feel kind of funny reading these papers talking about the Missouri River like it's not a thing with the spirit. Something with the spirit of our grandfather who followed this river for centuries, our people have lived along it all the way from Mexico up to this lake, mostly Arikara. I guess I feel obligated because my Grandfather Joe Packineau was standing in back of George Gillette as they signed the thing. I had to live in that house with them after we moved up here. I was very young and the trauma that we experienced.

I listened to all you nice gentlemen talk about the environmental impact statement. I wish someone would have done that with Indian people about how it was going to impact us when it was accomplished for your people. I really don't see any benefit for tribal people. I feel it's been a big violation and it's part of our historical trauma as we continue to suffer today. We have a lot of social problems. And my feeling is social services -- I'm the human services instructor at the college, having recently returned home and

Tribal 23

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tried to pick up the pieces that was caused by Garrison Dam, which was our biggest trauma which has really affected our people.

Today I talked in my class about posttraumatic stress syndrome and how the impact of the Garrison Dam has caused a lot of problems that we have. I know that it's happened, but I would just like to say these few words because I really feel that we're missing the boat in this whole thing.

Money isn't everything. Money is the reason of the world's power struggle. This kind of thinking, this kind of world view is the reason we're sitting in this state that we are today. I truly understand Osama bin Laden, and I think that the disrespect that is shown for native people or people anywhere are just unbelievable. The social impacts on our people are just unbelievable. I listened to the EPA person talk about the fish and all that kind of stuff, and I love my relatives, the fish, but when has anyone really looked at what our needs are? I look at how much money is spent on riprapping in reservation areas, which is almost nothing, but we make sure that the lands around Bismarck are riprapped. Our bodies are falling

Tribal 23

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into the water.

On top of this psychological impact that it's had on our people, we're still watching it, we're still being disrespected. We have people who I call rogues who rob our gravesites. We try to protect them as best we can with not very much resources. I beg that we look towards those things.

Tribal 23

One of the biggest problems I have with everything about the government, and I have done a lot of work with the government, and it tends to be with every branch of the government, that is the inability for the federal government to learn how to do consultation. And I noticed that our chairman has a government-to-government consultation in here, and I would hope that you would ask him what that means. I would hope that you would call together our leadership and all the tribes along the Missouri, and I would hope that you would ask them to define consultation and develop an agreement of how that would be done, not after the fact, not after the plans have been made, not down the road. That's usually what happens to us. That's also part of the trauma that also contributes to the psychological trauma that our

Legal 96

Other 306

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1 people are going through today.
2 I would also like to bring your attention
3 to the spiritual and emotional impacts, because
4 spiritually there's a lot of stuff that goes with
5 it that I won't even try to address because you
6 wouldn't understand what I'm talking about, but I
7 just want you to know there's a lot of spiritual
8 impacts that's happened because of what's happened
9 to our people along the river, our dead ones and
10 our sacred sites.
11 And there is a legal responsibility of the
12 Corps of Engineers, there's several laws, and I'm
13 not going to quote them because you know what they
14 are, that give you the obligation to try to protect
15 these sites, these cultural sites. And I would
16 hope that you would try to make that more a
17 prominent feature in the Master Manual with
18 consultation from the Tribes.
19 I listened to Mr. Balman talk about
20 boarding school, and I, too, am a product of
21 boarding school. Because they moved us up to the
22 top lands up here, we didn't have enough food to
23 eat, there was nine of us, and a lot of people went
24 to boarding school in my generation because we
25 really couldn't live, we had no income, we had no

Tribal 23

Other 148, 311

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1 economy, and that really caused a lot of the trauma
2 we see today because our families were broken up
3 very successfully. The Army Corps divided us up
4 and promised us hospitals, but there was never an
5 intent to build a hospital. And all the promises
6 that were made were pretty much not accomplished.
7 And I guess I have these words for you, is nothing
8 sacred to you? Is everything about money?
9 And I was visiting with some other people
10 and I told them, you know, the thing about western
11 thinking is that they always want to defy nature.
12 You know we have prophecies that say the water is
13 going to run backwards and that will be the end for
14 us. But we follow the river. That's part of our
15 culture. We are the river. Nobody did an
16 environmental impact statement about how it was
17 going to affect our cultures and what it does to
18 devastate us. There's just very few of us left.
19 8,000 maybe here, 9,000. We're the last of the
20 Three Affiliated Tribes, the Mandan, Hidatsa,
21 Arikara. Colonel, maybe that doesn't mean anything
22 to you, but it has a lot of meaning for me.
23 So we're a great people, but you came to
24 see us. It's all about money. It's capitalism run
25 amuck. It's always about money. Everything is --

Other 312

Other 182

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all the decisions are based on money. But I ask this question once again, is anything sacred? So I just needed to say that much for my Grandfather, the river, and the concept of the statement from the Master Manual for the control of the Missouri River, and it's offensive to me because how can you control your grandfather? That thought is crazy. But we think as human beings we have control of things. That even those towers when they bombed the Pentagon, how many people died? A couple hundred. When they bombed those Twin Towers, how many people died? Thousands. And you know why? Because as human beings we thought we were smarter than God. We thought that we could build against nature. We thought that we could defy the law of gravity. And these are the lessons that we never learn and why the world is at war and why we disrespect each other nationally, internationally, in every kind of way.

And even listening to the rhetoric of the President makes me nauseous. They used the same words they used on us, uncivilized, barbarian. I can understand Osama bin Laden. We did a lot to cause that. We're not innocent bystanders in that either. The same thing happened to us. So I make

Tribal 23

Other 182

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that analogy in all due respect. That's all I have to say. Thank you.

MR. MOORE: Lisa Johnson.

MS. JOHNSON: I'm a community member here. My husband is an enrolled member. And I was here earlier in the day and spoke with several of the people, the engineers, and I was told that studies are being conducted by the Corps to determine the cultural sites. But all the cultural sites are important. The shoreline is the Corps' responsibility. And they're failing in their duties. The erosion has taken many of the cultural sites and has disposed of a lot of them. The destruction of these sites by erosion, looting or vandalism is a heinous crime, and it's as bad to these people as the destruction of the World Trade Center is to nonIndians.

And I know I've seen -- a lot of people have seen homes and cities that are designated as historical landmarks, they're protected. I've seen sites along the highway that are historical markers. To these people cultural sites are also historically significant to them. And I also heard a lot of testimony about the fish and the birds and the water levels, but are these more important than

CR 6, 17, 25

Other 314

Tribal 26

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1 human beings? Thank you.
2 COL. FASTABEND: Does anyone else have a
3 comment?
4 MR. MAYER: May I make a comment? My name
5 is Richard Mayer. I'm a representative of the
6 Three Affiliated Tribes. I guess one of the things
7 I would like to say out of respect for my elders
8 and the chair, your staff that's here, is that the
9 importance of the taken lands. I think it's the
10 United Nations Human Rights Council that issued a
11 statement that to take away a land base from a
12 cultural people is an act of genocide.
13 And if you look at our map right now, you
14 can look at the land that we have and what we used
15 to have, and by you giving back our taken lands, I
16 believe that would be a step in the right
17 direction, but not really is it going to make a big
18 difference, but it will make a heck of a lot of
19 difference to me to get some of that land back to
20 create that cultural land base not only for us
21 today, but for our future generations. It's going
22 to mean a lot to my children. It's going to mean a
23 lot to their children, too, if you give that back
24 to us. We're talking about you taking
25 responsibility for taking care of the cultural --

Tribal 23

Legal 97

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1 our cultural artifacts that are alongside the river
2 lines, that we would be more than happy to do that
3 ourselves if we had control of that land. And
4 that's all I have to say. Thank you.
5 COL. FASTABEND: Thank you. Does anyone
6 else have a comment tonight?
7 MS. ALBERTS: Good evening. My name is
8 Bonnie Alberts. I am an enrolled member here of
9 the Three Affiliated Tribes.
10 First of all, I want to take this
11 opportunity to thank you for coming to us tonight
12 rather than having us have to travel a distance to
13 give testimony. But I'm a student here at the Fort
14 Berthold Community College and I'm also the editor
15 of our Tribe's tribal newspaper. But I'm only 21
16 years old, and some of the things that Miss Paulson
17 spoke about, I understand from a young person's
18 point of view exactly what my elders are talking
19 about and what it is my instructor -- she's my
20 instructor at the community college -- is talking
21 about.
22 When she was addressing the religious
23 issues of our people, primarily the Arikara people,
24 coming up the river from Mexico, one of the
25 traditions that we have among our Arikara people,

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and my grandmother still practiced it -- or she had practiced it in the past couple years that I was able to be fortunate to be a part of it, was there was a ceremony where -- there were two different ceremonies and one she talked about in our classroom where they would tie baby moccasins. After they finished a ceremony, they would tie baby moccasins to a cedar tree and send it down river so that the villages or our relatives down the river would be notified that we had had -- a ceremony had been done, and it also meant that whoever that child was or that baby was whose moccasins they were, prayers would be sent to that for a long life.

And I have a younger sister who is nine years old, and one of the ceremonies my grandmother had, it was a changing of the dress ceremony, and I guess I was able to witness those baby moccasins being tied after a dress had been changed and it was taken to near Washburn and placed in the river and sent down the river, and my grandmother told me that those were so my sister could live a good, strong life and grow to be a good, strong woman.

And the impacts, like she said, of the Garrison Dam are numerous, and from a very young

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person's perspective, I understand completely what it is that my ancestors went through and it is -- I am still suffering from it today emotionally because what they had, everything related to the land, everything that made them a culture, everything that made them happy, everything about who they were is now under water.

And now two generations later I'm a product of some of that loss of culture and it's really -- it is really sad to know that, and why someone would take away another person's culture or another person's livelihood is hard to comprehend, it's hard to understand.

And I just ask that we be included when decisions are being made about the river and when choices are being made about the river because we were the first native inhabitants of this land or this country, and I feel as a young person that it's important for generations after me to know about the rich history of our culture, the rich history of who we are.

Tribal 2, 18

And even though I'm as young as I am, I have a younger daughter that's one year old, she's one now, and there's so much that I want to share with her, there's so much I'm going to want to

teach her, but how can I do that when already a lot of what we've lost can't be replaced? And what we have, it's important that we keep that, that we keep that alive.

And I just thank you for coming to us tonight and letting us testify in front of you because it's a -- to me I see it as a big step in tribal and federal government relations that we're able to today actually sit together and work things out together rather than us sitting back blindly unaware of what's going on. Thankfully today we're educated enough to understand what's going on. Again, that's thanks to the federal government that we have this education that we have today. So thank you.

COL. FASTABEND: Thank you very much for your comments. Does anyone else have any comments?

In closing, I would like to remind all of you that the hearing administrative record will be open through 28 February 2002 for anyone wishing to submit written, faxed, or electronic comments. In addition, if you want to be on our mailing list or receive a copy of the transcript, you need to fill out one of the cards available at the table by the

entrance.

If there are no further comments, once more, thank Chairman Tex Hall, Three Affiliated Tribes, Lower Brule Sioux Tribe for requesting and participating in this hearing in their tribal homelands. This session is closed. Thank you very much.

(Concluded at 9:53 p.m., October 24, 2001.)

CERTIFICATE OF COURT REPORTER

I, Denise M. Andahl, a Registered Professional Reporter,

DO HEREBY CERTIFY that I recorded in shorthand the foregoing proceedings had and made of record at the time and place hereinbefore indicated.

I DO HEREBY FURTHER CERTIFY that the foregoing typewritten pages contain an accurate transcript of my shorthand notes then and there taken.

Bismarck, North Dakota, this 12th day of November, 2001.

Denise M. Andahl
Denise M. Andahl
Registered Professional Reporter

MASTER MANUAL PUBLIC HEARING
October 24, 2001
Oral Comments by Tex G. Hall
Chairman, Mandan, Hidatsa & Arikara Nation

On behalf of the people of the Mandan, Hidatsa & Arikara Nation, I welcome the Army Corps of Engineers to our homelands. The Three Affiliated Tribes was established in 1851 by the Fort Laramie Treaty. According to our Constitution and the United States government, treaties are the supreme law of the land and we as a Treaty Tribe are considered sovereign nations. As Chairman of a sovereign nation, I welcome this opportunity to provide comments on the Draft Environmental Impact Statement for the Master Manual for Control of the Missouri River. We will be providing very detailed comments on the Draft Environmental Impact Statement prior to February 28, 2002, the deadline for receiving comments.

Tonight, I'd like to comment on several concerns that tribes have and how the Master Manual will impact these concerns. In particular I want to stress that the river is a trust asset and the Army Corps as a federal agency is trustee. We need joint management of the river. The Mandan, Hidatsa and Arikara Nation is prepared to work cooperatively with the Army Corps on management of the river and on the following subject matters.

1. **<u>Government-to-Government Consultation:</u> This is absolutely essential. Consultation with tribal nations, according to Presidential Executive Order 13175, is vital to development of the Master Manual. Prior to the finalization of the Master Manual, all Tribal Nations along the River should be provided with in-depth consultation about how the final Master Manuel will be constructed. The Mandan, Hidatsa & Arikara**

people particularly have been adversely affected by the activities of the Army Corps in the past. Our reservation – our homelands were displaced by the building of the Garrison Dam.

2. Recognition of Winters Doctrine – Reserved Rights to Water from the River Our reserved water rights under the Winters Doctrine must be acknowledged; the final Environmental Impact Statement must recognize this before the Master Manual is finished. In recognition of this Doctrine, the Mandan, Hidatsa and Arikara Nation is ready to act collaboratively with the Army Corps on how the river, specifically our water rights, are to be managed.

3. Protection of Economic Activity Along the River The Draft Environmental Impact Statement must consider the effects of the various alternative flow schedules on the economic well being of the Mandan, Hidatsa and Arikara Nation, for example, how the water levels will impact the various economic development plans we have for the Four Bears Casino and Lodge and other tribal businesses. Remember, Tribes, as well as States and private enterprises have economic interests in the flow of the river.

4. Indian Trust Assets: The United States has a trust responsibility to protect and maintain rights reserved by or granted to American Indian Tribes or individuals. When an Indian Trust Asset has been impacted by a federal project such as trust lands, mineral rights, cultural resources, water rights, or hunting and fishing rights then the federal agency in its action document must analyze those interests, the adverse impacts, and set forth appropriate mitigation and/or compensation

commitments. We are ready to work collaboratively with the Corps to mitigate the following:

- Lake levels at Sakakawea and Oahe have dropped up to 12 feet, partly in response to low precipitation in the Missouri Basin over the last several years. This substantial drop has also been caused by the disproportionate role given by the Corps to navigation in the lower Missouri River.
- The dropping of the lake levels deprives the Tribes and their members and non-Indian business partners of the Tribes full and unconditional access to these important Reservoirs.
- The lake dropping also creates a substantial scar to the land and waters and takes away from the ongoing efforts of Tribes to enhance our recreation opportunities, to protect historic cultural properties and to restore endangered fish, native fish and aquatic and terrestrial habitat.

5. Environmental Justice Claims Environmental Justice Issues evolve out of Executive Order 12898 dated February 11, 1994. The Order provides that a federal agency shall make achieving Environmental Justice part of its mission by identifying and addressing as appropriate disproportionately high and adverse human health and environmental effects of its programs. Environmental Justice includes any adverse effect on minority and low-income populations. In the Missouri River, as Congress expends millions of dollars to recover endangered species, restore native fish, aquatic and terrestrial habitat, cultural resources and River economies, Environmental Justice requires a review of the availability of those federal benefits to minority and low income households and appropriate follow-through commitments.

- When the Garrison Dam was constructed by the Corps, we were relocated from the rich, fertile agricultural bottomlands, to grasslands not suited for our agricultural traditions.
- Lake Sakakawea created by the Garrison Dam is a long lake and has virtually eliminated meandering of the upper Missouri River as well as the flood lands, wetlands, and fish and game central to the Tribes' way of life. In their place has emerged over time noxious weeds that are endemic to the reservoir area.
- The lands adjacent to the reservoir are barren and have very few of the wetland characteristics that existed prior to the construction of the Garrison Dam.

6. United States Constitution and Equal Protection Clause

The Draft Master Manual Environmental Impact Statement fails to adequately set forth the Indian Trust Assets and Environmental Justice concerns of the Three Affiliated Tribes. Moreover to the extent that the Master Manual Draft Environmental Impact Statement relies upon Tribal input and Tribal documentation as set forth in Volume II, it violates the Equal Protection clause of the United States Constitution. Specifically, the Corps has elected to expend *its* funds to describe fisheries, flows, navigation, power and other socioeconomic concerns and included them in Volume I of the Draft. But when it comes to setting forth the Tribal concerns relating to the Indian Trust Assets and Environmental Justice, the Corps – notwithstanding repeated requests from the Tribes has relied upon the Tribes themselves to provide the documentation. Because there is no rational basis for this distinction the Corps is violating the Equal Protection clause of the United States Constitution.

To correct this Constitutional deficiency and to comply with contemporary Council on Environmental Quality requirements, the Corps in its final Environment Impact Statement should at its expense specifically address Indian Trust Assets and Environmental Justice concerns for those Tribes whose reservations have been adversely affected by the Missouri River operations.

7. Protection of Cultural Sites: Changing the flows along the River under several of the preferred alternatives presented by the Army Corps following the issuance of the "Biological Opinion" will most likely create additional erosion along the shores of the upper three reservoirs. These reservoirs are projected to be the reservoirs that will provide the flow necessary to implement the preservation of economic activities along the river and to provide protection of endangered species. The analysis of these changes must include complete studies of how they will affect our cultural sites along the river and how any damage to our sites will be mitigated or prevented altogether. Under the Native American Graves Protection and Repatriation Act, to allow such sites to be eroded away or left unprotected is unacceptable. Protection of these sites (the vast majority of which are associated with the Mandan, Hidatsa & Arikara) needs to be the subject of lengthy review within the Master Manual.

Substantial government-to-government consultation should be referenced not just for cultural site protection, but for all phases of the Master Manual itself.

Last night in Bismarck Governor Hoeven presented testimony describing North Dakota's position on the Master Manual review. Today I will briefly reiterate the same strong and clear message that North Dakota and adjoining states have been voicing for years. The Missouri River Master Manual must be changed to meet the contemporary needs of the basin and the time for this change is far past due.

The five mainstem dams authorized by the Flood Control Act of 1944 were constructed in 18 years. If the Master Manual revision is completed in 2003, it will have taken 14 years. The people of North Dakota and the Missouri River Basin can wait no longer. Any further delay to the Master Manual is not acceptable.

The Missouri River is of vital importance to the State of North Dakota for the various uses it provides. The power generated by the Missouri River dams, provides affordable electric rates for our citizens and to the citizens of neighboring states who receive much of the power from Garrison dam. 20% of North Dakota citizens get their water from the river. Seven coal fired power plants use river water for cooling and six other industrial users make use of Missouri River water. Approximately 16% of the total irrigated area in North Dakota uses Missouri River water. The Missouri River, Lake Sakakawea, and Lake Oahe provide recreation opportunities to hundreds of thousands of residents and visitors to the state.

The quality of the water in the Missouri River is important for municipal water supply and cold-water habitat. If the elevation of Lake Sakakawea falls below 1825 feet during mid to late summer, the reduced oxygen concentration puts the nationally acclaimed sport fishery of the big lake in serious jeopardy. Low lake levels also increase risk to human health through the resuspension of sediment from the delta portion of the lake. Wave actions of low water disturb the sediment, releasing chemicals into the water that is subsequently used for municipal water supplies.

The cultural and historical sites along the Missouri River are important to the State, the Three Affiliated Tribes, and the Standing Rock Sioux Tribe and further warrent change in the management of the river. Many of these resources are destroyed on a daily basis through erosion, looting, and the absence of shoreline protection and stabilization. Stable lake levels would impact fewer sites, so that a change in the operating plan that results in more stable lake levels in times of drought would benefit a resource, that may other wise be lost forever. These steps should be followed by the commitment of resources to stabilize the shoreline in order to protect and preserve these cultural and historical sites.

The draft EIS supports change by the benefits outlined in the five alternatives. They improve conditions for endangered species and conserve water in the mainstem reservoirs during times of drought. Unbalancing the reservoirs and increasing releases at Ft Peck may provide benefits for the pallid sturgeon, least tern and piping plover. Conserving water in the reservoirs during dry periods improves conditions for fish survival and thus recreation, and translates into more 'head' for hydropower. If these alternatives would have been in place during the drought of the late

1980s, Lake Sakakawea would have been 4 to 6 feet higher, translating into far better fish habitat, more efficient hydropower and an overall improvement in the economy of the areas that border the Missouri River.

The drought conservation measures included in the five new alternatives are essentially those agreed to by seven of the eight Missouri River Basin Association member states. Strictly from North Dakota's standpoint they do not go far enough. But, they are likely the most equitable means of distributing hardship during drought and are supported by seven of the eight states within the basin, including North Dakota. These drought conservation measures proposed by MRBA should be implemented as soon as possible and will be a vast improvement over the 40-year-old Master Manual. .

In conclusion, I urge the Corps to adhere to its current schedule for completing the Master Manual revision process. The time for equitable distribution of the benefits of Missouri River and equitable sharing of water shortages is now.

There is no question that any of the 5 proposed alternatives is marked improvement over the current water control plan. The results of the Economic and Environmental studies clearly illustrate how the Missouri River and the reservoirs can be better managed to benefit our children, the entire Missouri River Basin, and us. . If we manage them intelligently, realization of their potential can benefit all. On behalf of the people of North Dakota, and the Missouri River Basin, it is time for change on the Missouri River.

RECREATION IMPACT ON LAKE SAKAKAWEA
By Dick Messerly
10-24-01

The economic impact felt by Lake Sakakawea area communities especially Garrison goes with the level of the lake. If water levels are at a "normal" level, around 1840 fmsl mark, then the economy of communities along the lake point to a substantial increase. When lake levels decline to a low point, economies show a drop in direct correlation to the lake level.

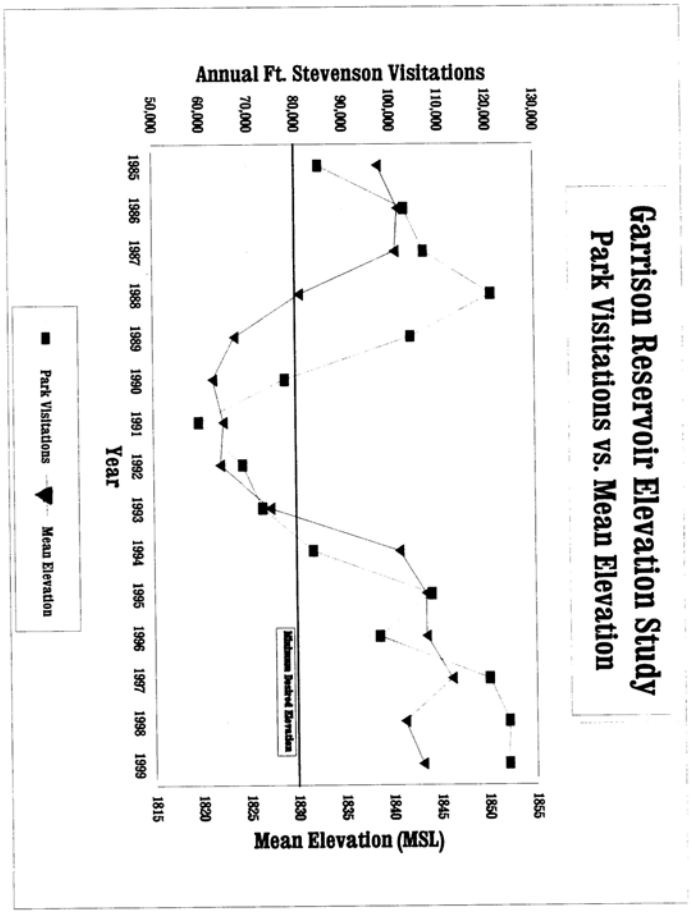
This correlation has been tracked by the Garrison Chamber of Commerce through collecting data on taxable sales, Lake Sakakawea elevations and visitation at Fort Stevenson State Park, a major state park on the north shore of Lake Sakakawea, just 3 miles south of Garrison. These figures are not estimates but hard facts.

In the low water year of 1991 when levels on Lake Sakakawea plunged to a low of 1815.5 fmsl the visitation at Fort Stevenson State Park also reached a low of 59,000 the taxable sales in Garrison were also cut to about $7.5 million annually. In the year 1999 when water levels were more normal with a summer operating season of 1840 fmsl or above visitation at Fort Stevenson State Park was at 124,000 and Garrison taxable sales were at $9.7 million. This is over a $2 million increase from the low water year of 1991. Similar taxable sales correlations can be seen in the New Town figures. In 1991 New Town had taxable sales of $2.6 million in 1999 taxable sales were at $4 million.

As annual Lake Sakakawea elevations have been tracked and compared to taxable sales in Garrison and New Town and to visitation at Fort Stevenson State Park starting with the year 1978 a pattern of impact becomes graphically obvious. Low lake levels, below 1830 fmsl mean lower taxable sales and lower park visitation. These translate into a tremendous negative economic impact to this area. Show charts which graphically show the impacts. (See attached graphs)

According to the most recent RDEIS Summary navigation under the best conditions generates about $7 million annually. Under the five proposed alternatives to the CWCP, navigation's benefit in a reduced flow year would be cut by about $2 million. But a $3.5 million cut in taxable sales were the impacts two towns on the north shore of Lake Sakakawea, Garrison and New Town. What needs to be taken into account with these figures is that this is just the impact on two communities. If this figure were increased to include the low water impact to all the communities, resorts and recreation areas on the three upper reservoirs the total would be staggering.

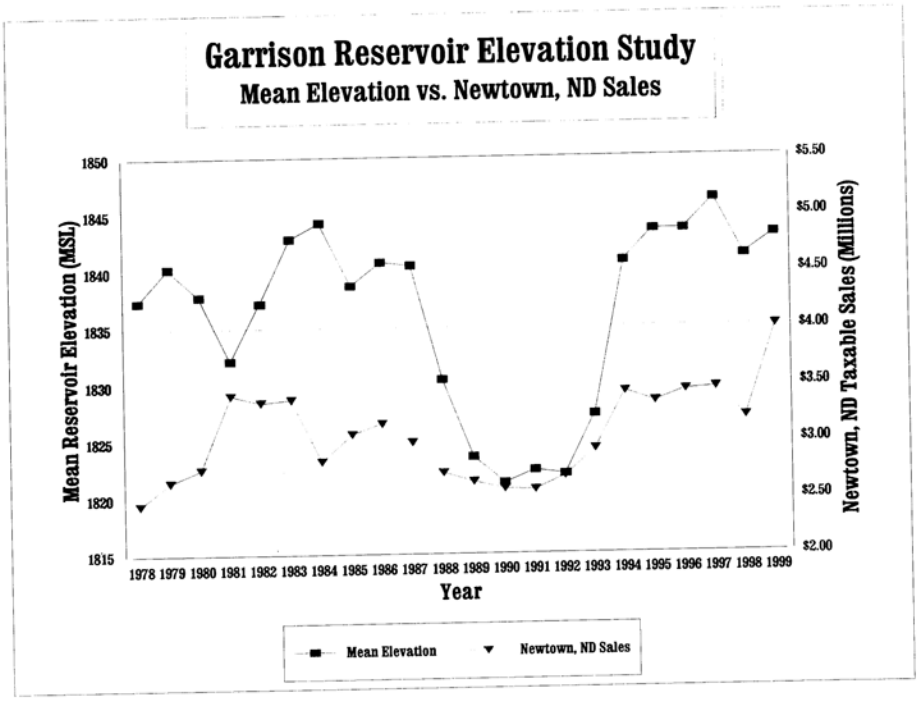
If the Corps of Engineers is going to follow through with its mission of "meeting the contemporary needs of the basin while protecting its natural resources" then it is time for change. The Corps studies have shown that a change in the Master Water Control Manual would have positive overall economic and environmental benefits. 7 of the 8 basin states agree it is time for a change. When 7 out of 8 votes are cast in favor of an issue that is a mandate of 88% favoring the change. The Corps has the mandate from the

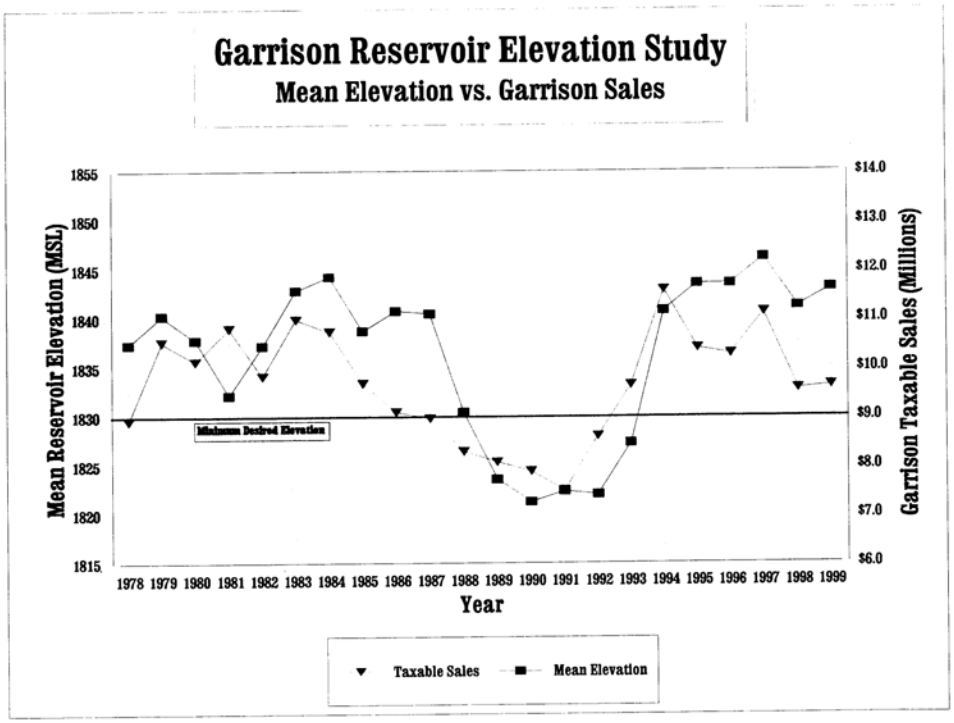


basin states to make a change. It is specifically time to stop being intimidated and bullied by a few officials from the state of Missouri.

In an AP story in the Minot Daily News paper dated September 30, 2001, state of Missouri Assistant Attorney General William Bryan is quoted as saying "They want to control our water" they meaning North Dakota, South Dakota and Montana. First of all Missouri river basin water in not the state of Missouri's water, it's valuable resource for the entire basin. Second the six main stem dams only collect on the average about 1/3rd of the runoff into the Missouri River basin. The other 60% runs into the Missouri River below Gavins Point Dam. In this same story Commissioner Howard Wood from the state of Missouri is quoted as saying "We don't want North Dakota to get the water either," It is time for the Corps of Engineers to take a stand against contentious rhetoric like this from a few Missouri State Officials and change the master manual so it reflects contemporary needs of the basin while protecting its natural resources. Garrison cannot afford to go through another drought on Lake Sakakawea under the CWCP.

Garrison would favor summer elevations not dropping below 1830 fmsl to support the fishery and keep Fort Stevenson State Park Marina fully operational and raising the permanent pool by 20 feet. But any of the proposed alternatives would be better than the CWCP.


Garrison Reservoir Elevation Study
Mean Elevation vs. Newtown, ND Sales
Mean Reservoir Elevation (MSL)
1850
1845
1840
1835
1830
1825
1820
1815
Newtown, ND Taxable Sales (Millions)
$5.50
$5.00
$4.50
$4.00
$3.50
$3.00
$2.50
$2.00
1978 1979 1980 1981 1982 1983 1984 1985 1986 1987 1988 1989 1990 1991 1992 1993 1994 1995 1996 1997 1998 1999
Year
Mean Elevation
Newtown, ND Sales


Garrison Reservoir Elevation Study
Mean Elevation vs. Garrison Sales
Mean Reservoir Elevation (MSL)
1855
1850
1845
1840
1835
1830
1825
1820
1815
Minimum Desired Elevation
Garrison Taxable Sales (Millions)
$14.0
$13.0
$12.0
$11.0
$10.0
$9.0
$8.0
$7.0
$6.0
1978 1979 1980 1981 1982 1983 1984 1985 1986 1987 1988 1989 1990 1991 1992 1993 1994 1995 1996 1997 1998 1999
Year
Taxable Sales
Mean Elevation

U.S. Fish and Wildlife Service
Public Comments
Missouri River Master Manual Hearing
New Town, North Dakota, October 24, 2001

Good evening, my name is Mike Olson and I'm here this evening on behalf of the U.S. Fish and Wildlife Service to issue a brief statement on the Revised Draft Environmental Impact Statement for the Missouri River Master Water Control Manual. I'm also here to listen to the comments in person from citizens on this important issue.

The Service has primary authority for oversight of our nation's rarest animals under the Endangered Species Act. The Missouri River is home to the endangered pallid sturgeon and least tern, and the threatened piping plover. The decline of these species tells us that the river is not healthy for its native fish and wildlife, and that there needs to be a change in its management to restore the Missouri to a more naturally functioning river system. A healthy river provides wildlife habitat, supports fishing, and makes boating an attractive recreational activity.

Congress committed the Federal Government to preventing extinctions by requiring Federal agencies to use their authorities to conserve endangered and threatened species. During the last 12 years our agency has been working with the U. S. Army Corps of Engineers to modernize the management of the Missouri River to help stabilize and hopefully, begin to increase and recover populations of these vary rare animals. This

new approach was described recently in a document called the "Missouri River Biological Opinion," published in November 2000.

The biological opinion looks at the river as a system and outlines the status of these rare species, the effects of the current operation on them, and a reasonable and prudent alternative to the current operation that will not jeopardize their continued existence.

Our biological opinion is based on the best available science and includes nearly 500 scientific references. In addition, we've sought out 6 respected scientists – "big river specialists" – who confirmed the need to address flow management, as well as habitat restoration. Further, the Missouri River Natural Resources Committee, a group comprised of the state experts on Missouri River management, endorses the science in the opinion.

If you have read the RDEIS or summary document, you understand that the "GP alternatives" encompass the range of flows identified by the Service as necessary below Gavin's Point Dam to keep the listed species from being jeopardized. Our agency, and the Corps, also recognized the importance of some flexibility in management that would enable Missouri River managers to capitalize on existing water conditions to meet endangered species objectives without having to go through another 12-year process.

Other management changes identified in the biological opinion include a "spring rise" out

of Fort Peck Dam, an improved hatchery operation to assist declining pallid sturgeon populations, restoration of approximately 20% of the lost aquatic habitat in the lowest 1/3 of the river, intrasystem unbalancing of the three largest reservoirs, and acceptance of an adaptive management framework that would include improved overall monitoring of the river.

In closing, the Service supports the identified goal of the revised master manual - to manage the river to serve the contemporary needs of the Missouri River Basin and Nation. These needs include taking steps to ensure that threatened and endangered species are protected while maintaining many other socioeconomic benefits being provided by the operation of the Missouri River dams. The Service stands behind the science used in the opinion, and is confident that the operational changes identified in our opinion, and included in the RDEIS as GP alternatives will ensure that these rare species continue to be a part of the Missouri River's living wildlife legacy.

The Missouri River is a tremendous river, with a significant and revered heritage. Our influence has altered the river greatly. Changes are needed to modernize and restore health to the river – for the benefit of rare species and for people, too.

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PIERRE, SOUTH DAKOTA TRANSCRIPT— OCTOBER 29, 2001

1

PUBLIC HEARING
ACCEPTING COMMENTS REGARDING
MISSOURI RIVER REVISED DRAFT ENVIRONMENTAL IMPACT STATEMENT
MASTER WATER CONTROL MANUAL

PROCEEDINGS HELD AT:

Ramkota Convention Center
920 West Sioux Avenue
Pierre, South Dakota 57501

Monday, October 29, 2001
7:00 o'clock p.m.

Reported by Carla A. Bachand, RMR, Capital Reporting Services, P.O. Box 903, Pierre, South Dakota 57501 (605) 224-7611.

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MONDAY, OCTOBER 29, 2001

(Colonel David Fastabend gave a short welcome and opening statement, followed by the showing of a video.)

COLONEL DAVID FASTABEND: I will call the names of those who have submitted cards, beginning with the elected officials. We will first hear from Ms. Jackie Stocklin from Senator Daschle's office.

JACKIE STOCKLIN: I do have a statement if you would like the copy afterwards.

COLONEL DAVID FASTABEND: We need to check your microphone there, Jackie.

JACKIE STOCKLIN: I am Jackie Stocklin from Senator Daschle's office, Rapid City, South Dakota.

COLONEL DAVID FASTABEND: Hold up a second. You having trouble in the back? Can we get some help up here on the mike? Anybody know how to control the volume?

JACKIE STOCKLIN: We will go from here. Again, I am from Senator Daschle's office and this is his statement. Thank you for providing me with this opportunity to testify about South Dakota's priorities for the revision of the Missouri River Master Water Control Manual. I appreciate all of you coming to Pierre today and I wish I could have joined you in person to discuss this matter with you.

Twelve years ago the U.S. Army Corps of Engineers started the process of revising the Missouri River Master

CAPITAL REPORTING SERVICES

Manual. This effort was long overdue. And while I am pleased that the Corps took on this issue, the review process has dragged on far too long. It is my firm hope that this hearing will bring us closer to its completion and to a meaningful revision of the river's management plan.

Other 203

The current Master Manual was written decades ago. It is outdated. It does not provide for enough water to support recreation. It is not sensitive to the needs of fish and wildlife. Instead it supports a small downstream barge industry at the cost of undermining the other major values of the river.

Other 7

When the dams were constructed decades ago, we lacked a full understanding of their broad impact. We knew they would benefit the economy, but we didn't understand that their main benefit, aside from flood control, would be from recreation.

Today, hunting, camping, fishing, boating and other forms of recreation are an $85 million industry. They support thousands of jobs and provide thousands more families with a way to enjoy themselves together.

Despite economic impact of the recreation industry, the Master Manual calls for the Corps to release water from the dams during the peak summer months of recreation to support the downstream barge industry. Releasing this water leaves South Dakota's boat docks high and dry and takes a

Nav 11

heavy toll on South Dakota's economy.

It would be one thing if water were sent downstream to meet a compelling national need. However, the truth is that water is released from the dams because the economists who helped to write the Master Manual in the 1960s got it wrong. They vastly overestimated the number of barges that would use the river.

Nav 11, 6, 8, 31, 18, 53

Today's barge industry is valued at only $7 million. It is so small that it carries only a tiny fraction of our regional agricultural products and has absolutely no competitive effect on rail rates. Yet this small industry exercises a lot of political clout. Barge operators know that they are getting the deal of a lifetime and will do whatever they can to keep the Master Manual from being changed. It is time for the Corps to stand up to the barge industry and restore fairness to the management of the Missouri.

The second major issue that needs to be addressed is the effect that dams have had on fish and wildlife. Because of the unnatural way in which water is released from the dams, three species have been brought to the brink of extinction. Unless the Corps changes the way it manages the river, the Corps of Engineers could be found in violation of the Endangered Species Act and the courts could intervene in river management. If that happens, it would be virtually impossible for the public to have any direct input into the river

EnSp 28

management.

Fortunately, these two problems can both be remedied if the Corps modernizes the Master Manual and incorporates a spring rise and split season in its management plan. According to the Fish and Wildlife Service, the spring rise will better mimic the natural flow of the river and help restore fish and wildlife to health. In addition, the split season plan will retain more water behind the dams in summer months when it is needed for recreation, while releasing water in the spring and fall to meet the needs of the barge industry during its time of heaviest use.

EnSp 8,2,5

I strongly support both the spring rise and split season. These proposals will modernize the management of the river to meet today's needs and uses. And they will benefit South Dakota by improving hunting and fishing and strengthening our economy.

Other 79

Finally, the Corps needs to understand that there is a consequence to inaction. Unless the Corps sticks to its current schedule and modernizes river management by 2003, a lawsuit could open the way for courts to manage the river. For that reason, I asked for and received assurances from both Secretary of the Army Tom White and Assistant Secretary of Civil Works Mike Parker that the Corps will release a recommendation for a river management plan by next May. It is important for the Corps to keep this pledge. It already has

Other 203

taken 12 years to revise the Master Manual. No further delay is acceptable.

These two officials also pledged that the Corps will follow the law during this process. Since the Corps must adopt a spring rise in order to comply with the Endangered Species Act, I see no legal way for the Corps to adopt anything other than that plan.

Legal 87

The Missouri River is at a crossroads. For the first time in decades, we are growing closer to adopting a new management plan for the Missouri. I urge the Corps to choose a management plan that will more fairly distribute the river's economic benefits and restore its fish and wildlife to health.

Other 7

Thank you for providing me with this opportunity to testify. I look forward to our continued work together.

COLONEL DAVID FASTABEND: Thank you, Ms. Stocklin. Mr. Pirner.

STEVE PIRNER: Colonel, thank you. I can speak loud enough, I think. My name is Steve Pirner, I am the Secretary of the South Dakota Department of Environment and Natural Resources. I would like to read a joint statement that was prepared by both the Department of Environment and Natural Resources and by the South Dakota Department of Game, Fish and Parks. I would also like the record to show that Secretary Cooper is also present this evening from the South Dakota

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Department of Game, Fish and Parks.

Thank you for the opportunity to provide comments on the Revised Draft Environmental Impact Statement for the Missouri River Master Water Control Manual. This subject is not new to the Corps, the South Dakota Department of Environment and Natural Resources, which I will refer to as DENR, or the Department of Game, Fish and Parks. For the past 12 years, the Corps has been engaged in a process to change the management of the Missouri River. Publication of the Revised Draft Environmental Impact Statement by the Corps which contains six different alternatives is a huge step forward, but this is no time to rest. It is time to study the alternatives, make the final decisions, and move forward with implementing a new Master Manual that works for the river.

Other 203

Officials of the Corps have said the final decision or alternative must meet all three of the following objectives: Number one, it must serve congressionally authorized project purposes. Number two, it must serve the contemporary needs of the basin. And number three, it must comply with all applicable laws to include the federal Threatened and Endangered Species Act.

Game, Fish and Parks and DENR agree with using these three criteria to make the final alternative and decision. We believe that approach will result in the best plan for the entire Missouri River basin.

Other 7

CAPITAL REPORTING SERVICES

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The Corps included the current Water Control Plan as one of the six alternatives in the Revised Draft Environmental Impact Statement. Using the three criteria just listed, it is clear the current 40-year-old Master Manual cannot be the final alternative. When the mainstem dams were built, the vision for the river was one of flood control, hydropower, navigation, and irrigation. While flood control and hydropower followed the vision and have been very successful, irrigation and navigation have not. Less than 10 percent of the land authorized for irrigation under the Flood Control Act of 1944 is irrigated today. Only slightly more than 10 percent of the annual commercial navigation anticipated under the Flood Control Act of 1944 takes place today, and the Corps estimates it to be a $7 million industry.

Other 7

FC 24
HPower 12

WS 11

Nav 18, 35

Clearly the contemporary uses of the Missouri River no longer reflect these 40-year-old visions. Instead of using the river for large scale irrigation and navigation projects, people have found other uses for the river. Fishing, boating, and recreation uses have increased tenfold, and recreation is now an annual $87 million industry in the basin. However, the current Master Manual drains the upper basin reservoirs during even moderately dry periods to maintain navigation flows downstream and leaves recreational users high and dry. Therefore, the contemporary uses of the river demand that changes are made to the Master Manual and keeping the current

Nav 42
Rec 10, 12

CAPITAL REPORTING SERVICES

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Master Manual is simply not an acceptable option.

The remaining five alternatives in the Revised Draft Environmental Impact Statement share several proposed changes, all of which we strongly support, and I would like to talk about each of those proposed changes and make a few brief remarks. Number one, adaptive management. In a river whose watershed encompasses one-sixth of the continental United States, there will never be normal conditions. There will be constant changes in the weather patterns, runoff, and river uses. Consequently, giving the Corps the authority and the flexibility to address constantly changing conditions must be a component of the final decision. Having the Corps locked into the current inflexible Master Manual makes no sense, breeds hostility between the users of the river, and has driven certain species onto the federal Threatened and Endangered and Species list. Number.

Other 10, 77

Two, drought conservation measures. The current Master Manual does very little for water conservation. America has entered a new era. We are no longer a country with unlimited natural resources. Upper basin states know conservation measures are important because we have seen the consequences of river management with little or no conservation measures under the current Master Manual. Low water levels in upper basin reservoirs eliminate recreational uses, devastate local economies, and increase the risk of

WS 22

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having catastrophic drought impacts downstream. It is absolutely critical that drought conservation measures be part of the final decision.

Number three, unbalancing of the upper three reservoirs. Unbalancing the reservoirs will improve habitat conditions for nesting terns and plovers and trigger spawning for the pallid sturgeon. At the same time, unbalancing of the reservoirs provides benefits to other fisheries in these three lakes. South Dakota Department of Game, Fish and Parks and DENR support the concept of unbalancing and recommend it to be a component of the final decision.

EnSp 8

Fish 8

Number four, flow modification of the Fort Peck reservoir. Construction of the mainstem reservoirs has had very negative impacts to several of the native river species. Flow modification from Fort Peck is a logical and reasonable approach to help restore these species. If these species can't be restored, the entire basin benefits by avoiding the potential court ordered management of the river through the Endangered Species Act. Game, Fish and Parks and DENR strongly support the concept of flow modifications from Fort Peck, when water availability makes it feasible.

EnSp 8

Four of the alternatives listed in the Revised Draft Environmental Impact Statement share the following attribute, which Game, Fish and Parks and DENR also support:

Flow modifications from Gavins Point Dam, which we

CAPITAL REPORTING SERVICES

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also strongly support. As mentioned previously, construction of the mainstem reservoirs has had very negative impacts on several native river species. Flow modification from Fort Peck when water availability makes it feasible has been largely agreed upon as a way to help restore these species. However, proposed flow modifications from Gavins Point have been much more controversial. Game, Fish and Parks and DENR support flow modification from Gavins Point Dam for the same reasons as we support flow modifications from Fort Peck.

EnSp 8,2,5

Of the four alternatives in the Revised Draft Environmental Impact Statement that contain flow modifications from Gavins Point, the Department of Game, Fish and Parks and DENR strongly support the Corps having the ability to implement the GP20/21 alternative through adaptive management. The science behind this alternative has gained nearly universal support from the technical fish and wildlife community and provides maximum recreational benefits for South Dakota. The Missouri River recreation is critical to South Dakota's economy and quality of life.

Other 79

This concludes our comments and recommendations for the Revised Draft Environmental Impact Statement. Using the criteria established by the Corps for selecting the final alternative, Game, Fish and Parks and DENR are confident our recommendations will become the Corps's final decision. We look forward to working with the Corps and the other basin

CAPITAL REPORTING SERVICES

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states to implement the new Master Manual and maximize the beneficial uses and quality of life throughout the entire river basin.

Those comments again were signed by John Cooper, Secretary of the South Dakota Department of Game, Fish and Parks, and myself, Steve Pirner, Secretary of the Department of Environment and Natural Resources.

COLONEL DAVID FASTABEND: Thank you, Mr. Pirner. Mr. Gary Drewes, mayor of Pierre.

GARY DREWES: Thank you, and welcome to Pierre. I have no prepared remarks, Carla. I will keep my remarks short this evening. I am in my twelfth year serving as mayor of Pierre. We have three-year terms here. One of the first meetings that I ever attended after being elected mayor was talking about the Master Manual and the revisions of it. At the time I thought I would probably go through at least my first term as mayor and into my second term before we would receive some results from that. I am now at the point where I am going to be finishing my fourth term and I still don't think we are going to see any results actually implemented for the Master Manual. Twelve years definitely, as has been stated already before, is too long. I encourage you to move forward on this in the most expedient manner that you possibly can.

Other 36, 203

Initially going back, one of the reasons that this

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1 particular area in South Dakota primarily was interested in
2 the reservoir system and the dams was the prospects of
3 irrigation. Those prospects never developed. Even after
4 millions of dollars were spent, after lots of dirt was moved,
5 equipment was installed, that project was scrapped and
6 Congress even deauthorized the project itself. So the
7 benefits of irrigation never came about. But one of the side
8 benefits, as also has been mentioned, that probably wasn't
9 recognized was how beneficial it would be for recreation.
10 Recreation has proved very beneficial for this area, for a
11 large area of the area where reservoirs are included. And I
12 think it is time for a change and to recognize the value of
13 that recreation to its full extent. I think we have
14 accomplished a lot with the recreation, but at the same time I
15 can see where in the future that recreation is jeopardized
16 unless changes are made.
17 I recognize that the Corps of Engineers has many
18 concerns with the endangered species, with wildlife issues,
19 with the historic and cultural issues that come about.
20 Recreation is another one, the barge interests in it, but at
21 the same time I think that we have to weigh those in their
22 entirety at this point and move forward and make the changes
23 that are necessary. I couldn't agree more with the statement
24 that was made by Senator Daschle relative to the impact, the
25 economic impact that the barge industry has in comparison to

WS 11

Rec 14, 19

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1 the recreation industry. Even with all the concerns that has
2 been brought to the Corps of Engineers, and I know that during
3 this 12 years you have had many new concerns that have been
4 brought to you, but I think one of the concerns that's been
5 not necessarily left out but has not been highlighted is
6 concern of people and the future generations and what this
7 reservoir system is going to mean to those future generations,
8 and it won't mean a lot unless things are done in the near
9 future.
10 I also have the privilege of serving as the chairman
11 of a new organization called the Missouri Sedimentation Action
12 Coalition, and just briefly to tell you that this is a group
13 that's designed to assist in trying to clean up some of the
14 sedimentation issues in the Missouri River, as we see
15 sedimentation as something that's going to really be, have a
16 large impact, negative impact on many of the things, the
17 amenities that we receive from the river, not to mention the
18 hydropower and the recreation. Our effort on that will be
19 positive towards the Corps of Engineers. We do want to lobby
20 and encourage Congress to give the responsibility of
21 sedimentation, whether it's from the tributaries or whether
22 it's from the shoreline, to the Corps of Engineers and at the
23 same time we want to lobby to fund those programs, such as the
24 Missouri River Restoration Act, to give you the money to take
25 care of those needs in those particular areas. So we are

1 looking forward to continuing to work with the Corps of
2 Engineers to resolve the issues not only on the Master Manual
3 but on the sedimentation issues. I thank you for the
4 opportunity of being here this evening.
5 COLONEL DAVID FASTABEND: Thank you, Mayor Drewes.
6 RICHARD MOORE: Nell McPhillips.
7 NELL McPHILLIPS: Good evening. My name is Nell
8 McPhillips. I am here this evening on behalf of the U.S. Fish
9 and Wildlife Service to issue a brief statement on the Revised
10 Draft Environmental Impact Statement for the Missouri River
11 Master Water Control Manual. I'm also here to listen to the
12 comments in person from citizens on this important issue.
13 The Service has primary authority for oversight of our
14 nation's rarest animals under the Endangered Species Act. The
15 Missouri River is home to the endangered pallid sturgeon and
16 least tern, and the threatened piping plover. The decline of
17 these species tells us that the river is not healthy for its
18 native fish and wildlife, and that there needs to be a change
19 in its management to restore the Missouri to a more naturally
20 functioning river system. A healthy river provides wildlife
21 habitat, supports fishing, and makes boating an attractive
22 recreational activity.
23 Congress committed the federal government to
24 preventing extinctions by requiring federal agencies to use
25 their authorities to conserve endangered and threatened

Other 294

1 species. During the last 12 years our agency has been working
2 with the U.S. Army Corps of Engineers to modernize the
3 management of the Missouri River to help stabilize and
4 hopefully begin to increase and recover populations of these
5 very rare animals. This new approach was described recently
6 in a document called the Missouri River Biological Opinion,
7 published in November 2000.
8 The biological opinion looks at the river as a system
9 and outlines the status of these rare species, the effects of
10 the current operation on them, and a reasonable and prudent
11 alternative to the current operation that will not jeopardize
12 their continued existence.
13 Our biological opinion is based on the best available
14 science and includes nearly 500 scientific references. In
15 addition, we have sought out six respected scientists, big
16 river specialists, who confirmed the need to address flow
17 management, as well as habitat restoration. Further, the
18 Missouri River Natural Resources Committee, a group comprised
19 of the state experts on Missouri River management, endorses
20 the science in the opinion.
21 If you have read the RDEIS or the summary document,
22 you understand that the GP alternatives encompass the range of
23 flows identified by the Service as necessary below Gavins
24 Point Dam to keep the listed species from being jeopardized.
25 Our agency, and the Corps, also recognized the importance of

17

some flexibility in management that would enable Missouri River managers to capitalize on existing water conditions to meet endangered species objectives without having to go through another 12-year process.

Other management changes identified in the biological opinion include a spring rise out of Fort Peck Dam, an improved hatchery operation to assist declining pallid sturgeon populations, restoration of approximately 20 percent of the lost aquatic habitat in the lowest one-third of the river, intrasystem unbalancing of the three largest reservoirs, and acceptance of an adaptive management framework that would include improved overall monitoring of the river.

In closing, the Service supports the identified goal of the revised Master Manual, to manage the river to serve contemporary needs of the Missouri River basin and nation. These needs include taking steps to insure that threatened and endangered species are protected while maintaining many other socioeconomic benefits being provided by the operation of the Missouri River dams. The Service stands behind the science used in the opinion and is confident that the operational changes identified in our opinion and included in the RDEIS as GP alternatives will insure that these rare species continue to be a part of the Missouri River's living wildlife legacy.

The Missouri River is a tremendous river, with a significant and revered heritage. Our influence has altered

CAPITAL REPORTING SERVICES

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the river greatly. Changes are needed to modernize and restore health to the river, for the benefit of rare species and for people, too. Thank you.

COLONEL DAVID FASTABEND: Thank you, Ms. McPhillips.

RICHARD MOORE: Curt Hohn.

CURT HOHN: Thank you. My name is Curt Hohn from Aberdeen, South Dakota, and I am the manager, general manager of the WEB Pipeline project, a rural water system that provides drinking water to 17 counties in South Dakota and part of North Dakota. I have a written statement that I will submit after the testimony. I want to thank the Corps for holding this hearing and getting public comment.

WS 11

Rural water, domestic water delivered to ranches and farms is a new benefit to the Missouri River system that was not envisioned in the 1940s. It was replaced, a replacement for the irrigation that was not accepted here in this part of the country and in turn we traded irrigation that we could not agree on for drinking water systems that we needed. I have a map that's attached to this testimony which shows the rural water systems that have developed in South Dakota. There are some 60 systems, and of that, there are some 11 that provide drinking water to South Dakota ranches, farms and towns from the Missouri River system. I will give you a copy to look at of that map and it will be submitted as part of the record.

The alternative that we would support is consistent

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with the state's position, which is 2021. We think it's an alternative that offers the best overall advantage for the people of South Dakota and for all the multiple uses on the river, some of which have changed in the last 40 years and rural water is a part of it.

Other 294

I am here today to talk for WEB and speak for WEB, but there are many rural water systems that have the same concerns about how the river is managed. The EIS talks about the fact that access to water is the most important concern for municipal water systems. Obviously a wet intake is essential for a water system. But we are also concerned about the quality of the water and how it's maintained. The fluctuations of the river can move as much as 23 to 38 foot in a given period of time or a given season, and those fluctuations affect water quality. Suspended solids, particles that are floating in the water that have to be treated and removed have an effect on water quality. When you keep the pool of the reservoir high, as high as you can, you result in a better quality of water for treatment. It requires less chemical, obviously it requires less electricity for pumping and moving the water and it results in a cleaner, better quality of water.

WQ 27

There is a term called trihelimethanes, THM, and essentially what causes them in water quality is when fine microscopic particles of sediment in water are not completely

removed and molecules of chlorine attach to them. It's becoming a problem and a concern for water systems, and the federal agencies like the EPA and others who are involved in water quality are urging water systems to reduce the levels of THM in drinking water. That's difficult to do when your water supply changes and fluctuates and sediment loads change because of the management of the system. We think GP 2021 offers the best option for water quality in our part of the river.

Our intake structure is south of Mobridge about seven miles. We draw water out of Lake Oahe and the water quality is very good when the pool is high and especially in the summer it declines when that water level fluctuates. We would like to see a stable summer pool, not just for drinking water but also for recreation. The towns of Mobridge and Gettysburg and Pollock and others are seeing a developing recreational industry and it's successful when the fish are biting and it's not when they aren't. The years when the river was low and we saw mud flats along the Missouri River in the Mobridge area, tumbleweeds as large as Christmas trees rolled into the town of Mobridge. It's hard to sell recreation when you have that kind of impact. So low flow has a very dramatic effect on water quality and it also has an effect on the economy and recreational base that we are trying to develop there.

Rec 10,16,17

We have sympathy certainly for those downstream who

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are affected by the operations of reservoirs and the effect it has on farm lands, but much of the lands that were lost, almost four to 500,000 acres of land that was lost when the dams were built came from those counties and those areas that are in the area that we serve now along the Missouri River, Lake Oahe. So we have lost the land already and the benefits of irrigation were not feasible, did not work. We have other alternatives like rural water which we have utilized and developed, but recreation is the next opportunity we need and we would like to see.

Other 7, 205, 206

In terms of cost, the WEB system extended its intake pipeline out into the Missouri River an additional 1,000 feet in order to accommodate the fluctuating flows in elevations in the early 1990s. That cost 1.3 million additional dollars to extend that intake. It gave us an additional 21 feet below the pool. The cost of moving water increased of course, it's going to increase as we lift it additional feet, but we had to guarantee our intake and our water quality source. That investment has been made.

When you look at the costs, the additional costs that result in changing or going from 2021 to some of the other alternatives, it's less than one percent and I would contend that the additional cost that municipalities and rural water systems will see in treatment of water because of sediment and turbidity would probably offset those differences, so I think

Other 36

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you should look very closely at the impact water quality has on drinking water, and it's more than just the municipalities that were drawing out of the river when the dams were built. Now we see rural water systems covering most of South Dakota. And most of them are drawing their water, the large ones are drawing their water from the Missouri River.

My father operated a blade and was a construction operator who helped build the Oahe reservoir near Pierre and he took great pride in that project and everything that it brought to the country and to South Dakota. But things have changed, a lot of things have changed in the 40 years that have passed. Dams were built by men and women and they can be changed and they need to be changed if they benefit, if we see a better benefit and a greater benefit for community. South Dakota made decisions and traded essentially irrigation for drinking water and now most of South Dakota is covered by drinking water systems that rely on the Missouri River. Water quality needs to be looked at closely and so does recreation that was part of that promise.

COLONEL DAVID FASTABEND: I need to advise you your time has expired. If you can go ahead and wrap up in one sentence, that would be fine.

CURT HOHN: In closing, we think the Corps of Engineers should look at the broader benefits of the river that are provided under GP2021. Thank you.

Other 79

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COLONEL DAVID FASTABEND: Thank you, Mr. Hohn.

RICHARD MOORE: Bill Beacom.

BILL BEACOM: My name is Bill Beacom and I am a navigator. It would seem that there is the need to make a decision, whether you look up the sprint man or maybe get a hat to cover up the scapegoat across my forehead because I have gotten blamed for everything that has happened on the Missouri River above Gavins Point for the last 14 years. Even Senator Daschle plays silly games with silly little plans that go against the Endangered Species Act. Below Gavins Point, we are told that we must encourage erosion and encourage more sediment so we can benefit the habitat of the fishes, but the Missouri River Restoration Act in South Dakota says that we must discourage erosion and discourage sediment because it costs us money, and South Dakota money is certainly more important than the downstream money.

I have heard nothing but blame placed on the navigators for the problems that South Dakota, North Dakota and Montana has caused for themselves. There is not anyone in South Dakota that would try to raise pheasants on a fox farm, but yet they have put every known fish predator into their water system that could possibly live in this area and they cannot figure out why 32 species of native fish are on the decline. My gosh, let's change the habitat, certainly we don't want to get rid of the foxes, they are making us money.

Fish 14

Blame it on somebody downstream. Now, you can't tell me that there is this many fisheries biologists that are unaware that of the hundred species that have gone down in the last -- of the 40 species that have gone down in the last hundred years, that 43 percent was caused by intentional introduction by U.S. Fish and Wildlife and only 38 percent was caused by habitat change. I mean, this is not a secret to anybody.

Fish 14

Why is it that everybody wants to avoid reality and wants to get somebody else to blame for what they have caused themselves? I don't understand this kind of approach. Navigation is struggling. You people built an $87 million recreation industry under the current water control plan and yet you say it's not feasible. If you could build something from zero to 87 million, what do you want to do? Are you so greedy that you don't want any of the downstream states to have any part of it? Do you want to grow your recreation to any bounds possible at the expense of the lower states?

Other 7

A gentleman come up here and talks about his water. The reason the water is hard to clean is because it's got sediment in it. If it's got sediment in it, it's got nutrients in it. Should we take all the nutrients out of the water so the small fish have nothing to eat? None of this makes any sense. It's nothing but a nonsensical approach to a problem that's not going to get solved until we start facing the reality and the reality is you got to take responsibility

Other 7

for what you are doing and quit blaming it on everybody else.

COLONEL DAVID FASTABEND: Thank you, Mr. Beacom.

RICHARD MOORE: Tracie Weber.

TRACIE WEBER: Hi, my name is Tracie Weber and I am speaking on my own behalf as a concerned individual. I live in Sioux Falls, South Dakota today, but I grew up on a farm in southeast South Dakota near the James River and my father loved to take us to the Missouri River. We fished, we camped, we went boating, and we just went there to enjoy the river itself. I went on to obtain my biology degree from the University of South Dakota and I chose to stay here in South Dakota and work to protect our natural treasures.

Two hundred years ago Lewis and Clark traveled up the Missouri. The river that they encountered was much different than the river that we know today. We can't go back to the days of Lewis and Clark, but we can take this opportunity, the revision of the Master Manual, to try to restore as much as possible the natural flow regime of the river, therefore, restoring natural habitat and protecting threatened and endangered species. We need to support the recommendations by the U.S. Fish and Wildlife Service for a spring rise and summer low flow, to assist in the recovery of the endangered species on the river by providing a semblance of the Missouri's historical, natural rise and fall of water levels. This will, as you know, increase the frequency of water levels

EnSp 8
Other 79

that cue fish spawning, increase sandbar habitat for birds and other species, increase shallow water habitat for native fishes, and increase fishing, canoeing, hunting and other forms of recreation and all the benefits that they bring to local economies.

EnSp 17

We must also support the U.S. Fish and Wildlife Service recommendations for restoration of river and floodplain habitat, for unbalancing of the three main reservoirs, for adaptive management of the river system, and for biological monitoring of the river system.

The Missouri belongs to us all and it needs to be managed with that in mind. For too long it has been controlled by the needs of a single industry, navigation, which continues to provide very little economic benefit for the Missouri River basin. It's time for the Corps of Engineers to listen to biologists and fish and wildlife experts who know how to protect vulnerable plant, fish and wildlife species and the habitat and water conditions they need to survive. I urge you to adopt the GP2021 alternatives and I thank you for the opportunity to speak this evening.

Other 7

COLONEL DAVID FASTABEND: Thank you, Ms. Weber.

RICHARD MOORE: Peter Carrels.

PETER CARRELS: Thank you for the opportunity to present testimony. My name is Peter Carrels, I live in Aberdeen, South Dakota. I work for the organization American

Rivers, but this testimony is not presented on their behalf.

Dissatisfaction with the status quo and a widespread and growing desire to continue the process of healing the Missouri River is why the Master Manual is being reviewed. This is why the Corps of Engineers has worked for more than a decade to resolve issues related to updating and reforming management of the river's mainstem dams.

Other 7

I endorse the Fish and Wildlife Service's biological opinion and encourage the Corps of Engineers to adopt alternative GP2021.

Other A

No fair-minded individual, organization or unit of government can deny that circumstances have changed on the Missouri River during the past 50 years. These changes have rendered current dam management techniques, the status quo, if you will, out of date, inadequate, and inappropriate.

Consider recent history to understand such changes. South and North Dakotans were enticed to approve five major dams on the Missouri River because of the large irrigation projects that were promised to these states by the federal government. The economic impact associated with the loss of hundreds of thousands of acres inundated behind the dams was to have been replaced by these large irrigation projects. But the federal government and the promoters of these irrigation projects did not understand the full spectrum of critical issues regarding such irrigation on the Northern Plains. They

WS 11

did not correctly understand the long-term irrigability of the soils they proposed to irrigate. Ultimately, large federal irrigation projects in the region were not built.

But the dams were built and the large reservoirs behind them filled, and some of the most biologically productive land and water environments in the plains were destroyed.

Not only did federal planners fall short in their understanding of the irrigation in the Dakotas, they also failed to correctly project the suitability and economics of the channelized Missouri River for navigation. For several key reasons, the commercial navigation industry on the Missouri has never matched expectations. Commercial cargo shipped on the river is scant, and independent economists have proved this is an inefficient enterprise. But navigation supporters keep inventing arcane gimmicks to support the viability of the industry, and river and dam management continues to place high priority on waterborne shipping.

Nav 18, 8, 10

Times have changed and so have priorities. South Dakotans recognized the need to shift their expectations from the river. Irrigation was replaced by domestic water pipelines. When Pick-Sloan was passed, no one anticipated that domestic water pipelines would one day utilize water from the Missouri. Also unanticipated was the recreation industry that developed along the large impoundments behind the

WS 16

Rec 11, 12

29

mainstem dams.

Reservoirs bring their own set of complicated issues, but recreation and wildlife have become a new focus not only in the upper basin but in the lower basin as well, where many residents point to lost oxbow lakes and wildlife habitat and the need to restore the river's former ecology.

WRH 7,6

Supporters of the status quo, particularly the state of Missouri, warn of large, out of basin water transfers from the reservoirs. These worries are largely baseless. Where is solid evidence that plans for out of basin transfers are in the works? There is criticism of efforts to protect endangered species. But the upshot of protecting endangered species is to protect countless other species of wildlife. Floodplain farmers in the lower basin contend that a spring rise will destroy their lands. That's not what the research modeling indicates.

Other 172

EnSp 7

FC 8

The current management approach was motivated and compelled by the inaccuracies and exaggerated projections. What if we knew 50 years ago that Missouri River navigation and irrigation would never materialize? What if we had anticipated the desire of so many Americans to hunt, fish, camp, hike, paddle or bird watch along the Missouri River? How would that have changed our approach?

Other 7

Fifty years ago, the people of the Missouri River region were fighting against the river. Today they are

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fighting against each other. Neither approach, we have learned, is as economically and environmentally productive and useful as learning to coexist with rivers.

In 1952, Time Magazine called the Missouri River the most useless river there is. That was a different era, a less informed era, an era filled with mistakes about managing natural resources. Today, people want more from their rivers than just industrial trenches or holding ponds behind dams. The Corps of Engineers can take an important step in righting past mistakes on the Missouri River by adopting dam management techniques that are friendlier to the river. Do we want to continue to kill the Missouri River, or do we want to take real steps that will help heal it? Thank you.

Other A

COLONEL DAVID FASTABEND: Thank you, Mr. Carrels. We have gone through our list of cards. Is there anyone here tonight that would like to make a statement? In closing, then, I would like to remind you that the hearing administrative record will be open through 28 February 2002 for anyone wishing to submit written facts or electronic comments. Also, if you want to be on our mailing list or receive a copy of the transcript, you need to fill out one of the cards available at the table by the entrance. If there are no further comments, this hearing session is closed. Ladies and gentlemen, I thank you for being here tonight and providing us with some very valuable information. Thank you

CAPITAL REPORTING SERVICES

very much.

(Whereupon, the proceedings were concluded at 8:30 p.m.)

C E R T I F I C A T E

STATE OF SOUTH DAKOTA)
) ss.
COUNTY OF HUGHES)

I, Carla A. Bachand, RPR, CM, Freelance Court Reporter for the State of South Dakota, residing in Pierre, South Dakota, do hereby certify:

That I was duly authorized to and did report the testimony and evidence in the above-entitled cause;

I further certify that the foregoing pages of this transcript represents a true and accurate transcription of my stenotype notes.

IN WITNESS WHEREOF, I have hereunto set my hand on this the 5th day of November, 2001.

Carla A. Bachand, RPR, CM
Freelance Court Reporter
Notary Public, State of South Dakota
Residing in Pierre, South Dakota.

My commission expires: June 10, 2006.

THOMAS DASCHLE
SOUTH DAKOTA

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Statement of Senator Tom Daschle
on the Missouri River Master Manual Revision
October 29, 2001

Thank you for providing me with this opportunity to testify about South Dakota's priorities for the revision of the Missouri River Master Water Control Manual. I appreciate all of you coming to Pierre today, and I wish I could have joined you in person to discuss this matter with you.

Twelve years ago, the U.S. Army Corps of Engineers started the process of revising the Missouri River Master Manual. This effort was long overdue. And while I am pleased that the Corps took on this issue, the review process has dragged on for far too long. It is my firm hope that this hearing will bring us closer to its completion and to meaningful revision of the river's management plan.

The current master manual was written decades ago. It is outdated. It does not provide for enough water to support recreation. It is not sensitive to the needs of fish and wildlife. Instead, it supports a small downstream barge industry at the cost of undermining the other major values of the river.

When the dams were constructed decades ago, we lacked a full understanding of their broad impact. We knew they would benefit the economy, but we didn't understand that their main benefit, aside from flood control, would be from recreation.

Today, hunting, camping, fishing, boating and other forms of recreation are an $85 million industry. They support thousands of jobs, and provide thousands more families with a way to enjoy themselves together.

Despite economic impact of the recreation industry, the master manual calls for the Corps to release water from the dams during the peak summer months of recreation to support the downstream barge industry. Releasing this water leaves South Dakota's boat docks high and dry and takes a heavy toll on South Dakota's economy.

It would be one thing if water were sent downstream to meet a compelling national need. However, the truth is that water is released from the dams because the economists who helped to write the master manual in the 1960s got it wrong. They vastly overestimated the number of barges that would use the river.

Today's barge industry is valued at only $7 million. It is so small that it carries only a tiny fraction of our regional agricultural products and has absolutely no competitive effect on rail rates.

Yet, this small industry exercises a lot of political clout. Barge operators know that they're

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getting the deal of a lifetime and will do whatever they can to keep the master manual from being changed.

It is time for the Corps to stand up to the barge industry and restore fairness to the management of the Missouri.

The second major issue that needs to be addressed is the effect the dams have had on fish and wildlife. Because of the unnatural way in which water is released from the dams, three species have been brought to the brink of extinction. Unless the Corps changes the way it manages the river, the Corps of Engineers could be found in violation of the Endangered Species Act and the courts could intervene in river management. If that happens, it will be virtually impossible for the public to have any direct input into river management.

Fortunately, these two problems can both be remedied if the Corps modernizes the master manual and incorporates a spring rise and split season in its management plan. According to the Fish and Wildlife Service, the spring rise will better mimic the natural flow of the river and help restore fish and wildlife to health. In addition, the split season plan will retain more water behind the dams in summer months, when it is needed for recreation, while releasing water in the spring and fall to meet the needs of the barge industry during its time of heaviest use.

I strongly support both the spring rise and the split season. These proposals will modernize the management of the river to meet today's needs and uses. And, they will benefit South Dakota by improving hunting and fishing, and strengthening our economy.

Finally, the Corps needs to understand that there is a consequence to inaction. Unless the Corps sticks to its current schedule and modernizes river management by 2003, a lawsuit could open the way for courts to manage the river.

For that reason, I asked for and received assurances from both Secretary of the Army Tom White and Assistant Secretary for Civil Works Mike Parker that the Corps will release a recommendation for a river management plan by next May. It is important for the Corps to keep this pledge. It already has taken 12 years to revise the master manual. No further delay is acceptable.

These two officials also pledged that the Corps will follow the law during this process. Since the Corps must adopt a spring rise in order to comply with the Endangered Species Act, I see no legal way for the Corps to adopt anything other than that plan.

The Missouri River is at a crossroads. For the first time in decades, we are growing closer to adopting a new management plan for the Missouri. I urge the Corps to choose a management plan that will more fairly distribute the river's economic benefits and restore its fish and wildlife to health.

Thank you for providing me with this opportunity to testify. I look forward to our continued work together.

GREAT FACES. GREAT PLACES.

October 29, 2001

U.S. Army Corps of Engineers
Attn: Project Manager, Master Manual Review and Update
12565 West Center Road
Omaha, NE 68144

Re: Comments from South Dakota Department of Environment & Natural Resources and Game, Fish & Parks on Revised Draft Environmental Impact Statement for the Missouri River Master Water Control Manual

Dear Project Manager:

Thank you for the opportunity to provide comments on the Revised Draft Environmental Impact Statement for the Missouri River Master Water Control Manual. This subject is not new to the Corps, South Dakota Department of Environment & Natural Resources (DENR) or Game, Fish & Parks (GF&P). For the past twelve years, the Corps has been engaged in a process to change the management of the Missouri River. Publication of the Revised Draft Environmental Impact Statement by the Corps which contains six different alternatives is a huge step forward. But this is no time to rest. It is time to study the alternatives, make the final decisions, and move forward with implementing a new Master Manual that works for the river.

Officials of the Corps have said the final decision or alternative must meet all three of the following objectives:

1. it must serve congressionally authorized project purposes;
2. it must serve the contemporary needs of the basin; and
3. it must comply with all applicable laws to include the federal Threatened and Endangered Species Act.

GF&P and DENR agree with using these three criteria to make the final alternative and decision. We believe that approach will result in the best plan for the entire Missouri River basin.

The Corps included the current Water Control Plan as one of the six alternatives in the Revised Draft Environmental Impact Statement. Using the three criteria above, it is clear the current 40-year old Master Manual cannot be the final alternative. When the mainstem dams were built, the vision for the river was one of flood control, hydropower, navigation, and irrigation. While flood control and hydropower followed the vision and have been very successful, irrigation and navigation have not. Less than 10 percent of the land authorized for irrigation under the Flood Control Act of 1944 is irrigated today. Only slightly more than 10 percent of the annual commercial navigation anticipated under the Flood Control Act of 1944 takes place today, and the Corps estimates it to be $7 million industry.

Clearly, the contemporary uses of the Missouri River no longer reflect those 40-year old visions. Instead of using the river for large-scale irrigation and navigation projects, people have found other uses for the river. Fishing, boating, and recreation uses have increased ten-fold, and recreation is now an annual $87 million industry in the basin. However, the current Master Manual drains the upper basin reservoirs during even moderately dry periods to maintain navigation flows downstream and leaves recreational users high and dry. Therefore, the contemporary uses of the river demand that changes are made to the Master Manual and keeping the current Master Manual is simply not an acceptable option.

The remaining five alternatives in the Revised Draft Environmental Impact Statement share several of the following changes from the existing Master Manual, all of which we strongly support:

- **Adaptive management -** In a river whose watershed encompasses one-sixth of the continental United States, there will never be "normal" conditions. There will be constant changes in the weather patterns, runoff, and river uses. Consequently, giving the Corps the authority and flexibility to address constantly changing conditions must be a component of the final decision. Having the Corps locked into the current inflexible Master Manual makes no sense, breeds hostility between the users of the river, and has driven certain species onto the federal threatened and endangered species list.
- **Drought conservation measures -** The current Master Manual does very little for water conservation. America has entered a new era. We are no longer a country with unlimited natural resources. Upper basin states know conservation measures are important because we have seen the consequences of river management with little or no conservation measures under the current Master Manual. Low water levels in upper basin reservoirs eliminate recreational uses, devastate local economies, and increase the risk of having catastrophic drought impacts downstream. It is absolutely critical that drought conservation measures be part of the final decision.
- **Unbalancing of the upper three reservoirs -** Unbalancing the reservoirs will improve habitat conditions for nesting terns and plovers and trigger spawning for the pallid sturgeon. At the same time, unbalancing of the reservoirs provides benefits to other fisheries in these three lakes. GF&P and DENR support the concept of unbalancing and recommend it be a component of the final decision.
- **Flow modifications from Fort Peck reservoir -** Construction of the mainstem reservoirs has had very negative impacts to several of the native river species. Flow modification from Fort Peck is a logical and reasonable approach to help restore these species. If these species can be restored, the entire basin benefits by avoiding the potential court-ordered management of the river through the Endangered Species Act. GF&P and DENR strongly support the concept of flow modifications from Fort Peck when water availability makes it feasible.

Four of the alternatives in the Revised Draft Environmental Impact Statement share the following attribute, which GF&P and DENR also support:

- **Flow modifications from Gavins Point dam -** As mentioned above, construction of the mainstem reservoirs has had very negative impacts on several native river species. Flow modification from Fort Peck when water availability makes it feasible has been largely agreed upon as a way to help restore these species. However, proposed flow modifications from Gavins Point have been much more controversial. GF&P and DENR support flow modifications from Gavins Point dam for the same reasons as we support flow modifications from Fort Peck.

Of the four alternatives in the Revised Draft Environmental Impact Statement that contain flow modifications from Gavins Point, GF&P and DENR strongly support the Corps having the ability to implement the GP20/21 alternative through adaptive management. The science behind this alternative has gained nearly universal support from the technical fish and wildlife community and provides maximum recreational benefits for South Dakota. Missouri River recreation is critical to South Dakota's economy and quality of life.

This concludes our comments and recommendations for the Revised Draft Environmental Impact Statement. Using the criteria established by the Corps for selecting the final alternative, GF&P and DENR are confident our recommendations will become the Corps' final decision. We look forward to working with the Corps and the other basin states to implement the new Master Manual and maximize the beneficial uses and quality of life throughout the entire Missouri River basin.

Sincerely,

John L. Cooper
Secretary
Game, Fish & Parks

Steven M. Pirner
Secretary
Environment & Natural Resources

cc: Governor William J. Janklow
U.S. Senator Tom Daschle
U.S. Senator Tim Johnson
U.S. Congressman John Thune

U.S. Fish and Wildlife Service
Public Comments
Missouri River Master Manual Hearing
Pierre, South Dakota, October 29, 2001

Good evening, my name is Nell McPhillips and I'm here this evening on behalf of the U.S. Fish and Wildlife Service to issue a brief statement on the Revised Draft Environmental Impact Statement for the Missouri River Master Water Control Manual. I'm also here to listen to the comments in person from citizens on this important issue.

The Service has primary authority for oversight of our nation's rarest animals under the Endangered Species Act. The Missouri River is home to the endangered pallid sturgeon and least tern, and the threatened piping plover. The decline of these species tells us that the river is not healthy for its native fish and wildlife, and that there needs to be a change in its management to restore the Missouri to a more naturally functioning river system. A healthy river provides wildlife habitat, supports fishing, and makes boating an attractive recreational activity.

Congress committed the Federal Government to preventing extinctions by requiring Federal agencies to use their authorities to conserve endangered and threatened species. During the last 12 years our agency has been working with the U. S. Army Corps of Engineers to modernize the management of the Missouri River to help stabilize and hopefully, begin to increase and recover populations of these vary rare animals. This

new approach was described recently in a document called the "Missouri River Biological Opinion," published in November 2000.

The biological opinion looks at the river as a system and outlines the status of these rare species, the effects of the current operation on them, and a reasonable and prudent alternative to the current operation that will not jeopardize their continued existence.

Our biological opinion is based on the best available science and includes nearly 500 scientific references. In addition, we've sought out 6 respected scientists – "big river specialists" – who confirmed the need to address flow management, as well as habitat restoration. Further, the Missouri River Natural Resources Committee, a group comprised of the state experts on Missouri River management, endorses the science in the opinion.

If you have read the RDEIS or summary document, you understand that the "GP alternatives" encompass the range of flows identified by the Service as necessary below Gavin's Point Dam to keep the listed species from being jeopardized. Our agency, and the Corps, also recognized the importance of some flexibility in management that would enable Missouri River managers to capitalize on existing water conditions to meet endangered species objectives without having to go through another 12-year process.

Other management changes identified in the biological opinion include a "spring rise" out

of Fort Peck Dam, an improved hatchery operation to assist declining pallid sturgeon populations, restoration of approximately 20% of the lost aquatic habitat in the lowest 1/3 of the river, intrasystem unbalancing of the three largest reservoirs, and acceptance of an adaptive management framework that would include improved overall monitoring of the river.

In closing, the Service supports the identified goal of the revised master manual - to manage the river to serve the contemporary needs of the Missouri River Basin and Nation. These needs include taking steps to ensure that threatened and endangered species are protected while maintaining many other socioeconomic benefits being provided by the operation of the Missouri River dams. The Service stands behind the science used in the opinion, and is confident that the operational changes identified in our opinion, and included in the RDEIS as GP alternatives will ensure that these rare species continue to be a part of the Missouri River's living wildlife legacy.

The Missouri River is a tremendous river, with a significant and revered heritage. Our influence has altered the river greatly. Changes are needed to modernize and restore health to the river – for the benefit of rare species and for people, too.

Testimony To The
U.S. Army Corps of Engineers
Public Hearing
Missouri River Management Plan
Pierre, South Dakota
Oct. 29, 2001

Presented By
Curt Hohn, General Manager
WEB Water Development Association, Inc.
Aberdeen, SD

I am Curt Hohn, General Manager of the WEB Water Development Association, Inc., Aberdeen, SD. I want to thank the Corps of Engineers for holding these hearings throughout the Missouri River Basin for the purpose of gathering public comment proposed modification of the operating plan for the Missouri River.

I'm here today representing the WEB Rural Water System, which operates a 6,000-mile regional pipeline system that provides drinking water to 74 towns and bulk users and 6,000 farms and rural hookups in 14 counties in north-central South Dakota and 3 counties in south-central North Dakota. The WEB system provides drinking water to approximately 30,000 people and a 500,000 head livestock industry. Water available from ground water wells in the area is often brackish and violates one or more federal drinking water standards. The Missouri River is the sole source of water for the WEB Project.

The WEB Intake Pumping Plant and Water Treatment Plant are located about 7 miles south of Mobridge, SD along the east bank of Lake Oahe Reservoir in Walworth County. Enclosed with our testimony is a map of South Dakota showing the location of the WEB Project and other rural water systems in the state. There are 11 rural water pipeline systems in South Dakota, which draw water from the Missouri River. Combined, these rural water systems provide water service to farms, ranches, and rural homes in all or parts of 50 counties and serve more than 175 towns and bulk users in South Dakota. That doesn't include the Lewis & Clark Project, which was recently authorized by Congress and will draw water from the Missouri River near Vermillion.

I'm here today on behalf of the WEB Rural Water System to present the following testimony:

- Of the various alternatives being considered, **we believe that GP2021 offers the best overall advantage for South Dakota** rural water use, as well as recreational and economic development needs of the area.

- We believe that the Revised Environmental Impact Statement (REIS) understates the impact of various options on municipal and rural water supplies. The REIS claims that Option GP1528 has the "highest total water supply benefits" and that GP2021 and GP1521 have the lowest. The REIS states... "options on water supply were measured by determining the annual water supply benefits in millions of dollars per year for intake facilities along the main stem reservoir". "Access to the water rather than the quantity of water available is the main concern of the intake operators because changes in river flows and lake elevations affect the cost of operating intake facilities."

- Did the EIS take into consideration the economic impact of the options on drinking water supply systems? Municipal and domestic water use for human and animal consumption is supposed to have one of the highest priorities within federally managed water systems like the Missouri River system. It should have been given more consideration in the cost benefit analysis of the various options being considered. We are not aware of anyone from the Corps or the federal government securing information or input from WEB, which is one of the largest federally funded rural water systems in the Missouri River Basin. That's why we are here today.

- The operating methods used in previous years have resulted in reservoir level fluctuations during drought periods. Lake Oahe elevation has ranged from a normal level of around 1,604 feet elevation to as low as 1,581 feet in 1989. Large mud flats developed and large tumbleweeds grew along the shoreline and blew in to Mobridge blocking city streets.

- We agree with the following statement in the REIS...."Low lake and river levels may increase day-to-day operating costs, lead to capital costs for intake modification or development of an alternative water source or even cause a shutdown". The lowering of the river pool during the summer months results in a change in water temperature and turbidity, which required more chemical and treatment and increases the risk of THM's in the drinking water provided to our customers. This at a time when the federal government is lowering the allowable levels for THM's and directing water utilities to look at replacement of conventional chlorine treatment with micro filtration, ultra-violet, and other system changes that will be costly to build and more costly to operate. Lowering reservoir levels in summer months will only aggravate the situation.

- As part of the original construction in 1984-85, WEB spent $2.1 million constructing the Intake Pipe and Pumping Plant. Because of low operating levels, WEB was forced to spend an additional $1.4 million dollars in 1990-91 to lower its intake screen and extend the 36 inch intake pipe 1,000 feet further out into the Missouri River and lower the intake pipe and screen 21 feet lower, from the original installation elevation of 1,561.3 feet to elevation 1,540 feet elevation.

- Our chemical costs to treatment water and electrical costs to pump and treat 1,000 gallons of water have went up 50% over the past 10 years. Some of that cost can be attributed to inflation. However, I believe more than half is attributed to management of reservoir flows.

- The difference between GP2021 and GP1528 is only 0. 4% (less than 1%) per year, or about $2.6 million. Having been involved in water system management for 25 years, it's my opinion that municipal and rural water system providers that rely on the Missouri River as their source of water could very easily experience more expense than $2.6 million per year if GP1528 is adopted and implemented.

- WEB is concerned that the cost impact to municipal and rural domestic water systems may not have been taken into consideration The REIS states water supply benefits were averaged and calculated by estimating the capital and operating costs that would result from electricity generating capability when heated water discharges are constrained.

As we see it, there are obvious benefits to municipal/rural domestic water systems and South Dakota in general if the GP2021 is adopted and implemented:

- Higher releases in the spring will be comparable to natural flows and should result in clearing the channel of silt and debris downstream.
- Lower releases in the summer months will provide a stable and predictable water levels and should improve water quality and reduce turbidity, all of which will benefit municipal and rural water systems and the populations and industries they serve.
- Lower releases in the summer months will provide water for better fishing and recreation along the Missouri River in communities like Pollock, Mobridge, Gettysburg, and Pierre in our area as well other areas downstream, and improve the economy and the tax base of the surrounding communities all of which lost land when the Oahe Dam was constructed.
- As our rural economy declines, we need to increase the fishing and hunting recreational economy and the Missouri River is the key. When the fish are hitting on Lake Oahe or the hunting is good, vehicles with out-of-state license plates crowd the gas pumps and the parking lots of stores in Aberdeen, Webster, and other towns that share Highway 12, the main east-west highway that connects Minneapolis to the Missouri River.
- We are not unsympathetic to the concerns of downstream property owners and communities who feel increased spring flows will have a negative impact on property and farm lands. However, the landowners, farmers, ranchers, tribes and local governments in our part of the Missouri River Basin gave up rich bottom lands as part of the original 500,000 acres lost to construction of the reservoirs, which for years have provided flood control that downstream communities and property owners have enjoyed.
- When the dams were built, the landowners and local governments in the area WEB serves were promised benefits such as irrigation, municipal domestic water and recreation. Irrigation materialized along the river with moderate success because of pumping costs and the short growing season.
- Beyond drinking water, the one success we have seen is recreation and resort development, which has brought a positive impact to the local economy. However, the progress has been limited by the uncertainties of reservoir level management.
- One would think that it would be better to have a higher flow in the spring and then lower flow in the summer so that low lands can be farmed. The Corps of Engineers and the federal government have compensated homeowners whose property is being impacted near Pierre. If farm and ranch land is impacted by the change in operation then funds should also be made available to compensate farmers and landowners impacted.
- If hydropower is impacted, the Corps of Engineers should work closely with the rural electric systems and explore selling surplus power generated in the spring of the year during periods of high flow out of the area at a higher value and allow the revenues to be used to help offset the loss of power generated in the lower flow summer months.
- As to the impacts on the barge industry,.....the movement of products and commodities by barge has been replaced by the interstate highway system and rail transportation and should not control or dictate sound management of the river system.

Rivers have a way of reclaiming what, by virtue of nature, elevation and topography is their own. Local, state, and federal policy should discourage construction and development within flood plains and flood prone areas to avoid economic loss and to assure public safety.

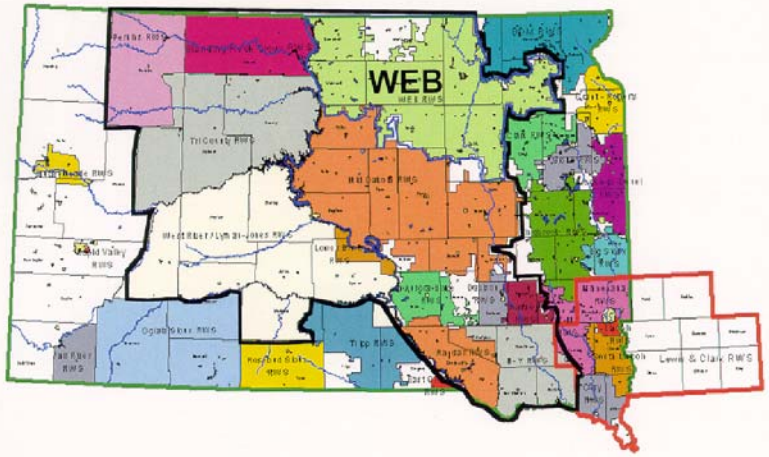
My father helped build the Oahe Dam and Reservoir near Pierre as a construction equipment blade operator. Lake Oahe was always a source of great pride for him and the others who helped build it. But a lot has changed in the past 40 years. Dams and reservoirs built by man can be modified and operated to better meet changing needs and changing times.

The operating manual for the Missouri River should not remain static and must take into consideration the needs of the future and not be based on the assumptions, science and technology of the 1950's.

The U.S. Fish and Wildlife Service and other wildlife experts confirm that restoring more natural flows to the Missouri River under option GP2021 will increase fish spawning, increase sand bar habitat for birds and other species, improve habitat for native fish, and increase fishing, boating, hunting and recreational opportunities. To many South Dakotans, changing the management of the Missouri River to prevent the loss of 3 endangered species,...the piping plover, the interior least tern, and the pallid sturgeon....may not seem compelling standing alone. But, as anyone who knows rivers and who hunts and fishes can tell you.....the plover, the tern, and the surgeon may very be to the Missouri River what a canary is to a miner. The decline of fish and wildlife often signals the decline of a river system.

What is endangered is not just 3 species of wildlife....but a river ecosystem that provides the fish and wildlife and water quality and recreation that we have come to know and rely on. Like most rivers, the Missouri is the lifeblood of South Dakota. It's provides drinking water we need to live. It provides water for our livestock industry and business. It provides water for electricity to heat and light our homes. But, the measure of this river is also a measure of the quality of life here. Family outings on the Missouri River lower blood pressure and create memories. It has brought fishermen, hunters and tourists to South Dakota from all over the country and is just now being discovered.

The Corps of Engineers should "follow through" so that the country, the basin, and South Dakota can recognize the broad benefits the river can provide with a more progressive flexible management and flow plan included in the option or alternative defined as GP2021.



Testimony presented on the RDEIS of the Missouri River Master Manual
by Peter Carrels, Aberdeen, SD
Presented at the Pierre, SD hearing, October 29, 2001

Dissatisfaction with the status quo, and a widespread and growing desire to continue the process of healing the Missouri River is why the master manual is being reviewed. This is why the Corps of Engineers has worked for more than a decade to resolve issues related to updating and reforming management of the river's mainstem dams.

I endorse the Fish and Wildlife Service's biological opinion, and encourage the Corps of Engineers to adopt alternative GP 2021.

No fair-minded individual, organization or unit of government can deny that circumstances have changed on the Missouri River during the past fifty years. These changes have rendered current dam management techniques –the status quo, if you will- out of date, inadequate, and inappropriate.

Consider recent history to understand such changes. South and North Dakotans were enticed to approve five major dams on the Missouri River because of the large irrigation projects that were promised to these states by the federal government. The economic impact associated with the loss of hundreds of thousands of acres inundated behind the dams was to have been replaced by these large irrigation projects. But the federal government and the promoters of these irrigation projects did not understand the full spectrum of critical issues regarding such irrigation on the Northern Plains. They did not correctly understand the long-term irrigability of the soils they proposed to irrigate. Ultimately, large federal irrigation projects in the region were not built.

But the dams were built and the large reservoirs behind them filled, and some of the most biologically productive land and water environments in the Plains were destroyed.

Not only did federal planers fall short in their understanding of irrigation in the Dakotas, they also failed to correctly project the suitability and economics of the channelized Missouri River for navigation. For several key reasons the commercial navigation industry on the Missouri has never matched expectations. Commercial cargo shipped on the river is scant, and independent economists have proved this is an inefficient enterprise. But navigation supporters keep inventing arcane gimmicks to support the viability of the industry, and river and dam management continues to place high priority on waterborne shipping.

Times have changed, and so have priorities. South Dakotans recognized the need to shift their expectations from the river. Irrigation was replaced by domestic water pipelines. When Pick-Sloan was passed, no one anticipated that domestic water pipelines would one day utilize water from the Missouri. Also unanticipated was the recreation industry that developed along the large impoundments behind the mainstem dams.

Reservoirs bring their own set of complicated issues, but recreation and wildlife have become a new focus not only in the upper basin, but in the lower basin as well, where many residents point to lost oxbow lakes and wildlife habitat, and the need to restore the river's former ecology.

Supporters of the status quo, particularly the state of Missouri, warn of large, out-of-basin water transfers from the reservoirs. These worries are largely baseless. Where is solid evidence that plans for out-of basin transfers are in the works? There is criticism of efforts to protect endangered species. But the upshot of protecting endangered species is to protect countless other species of wildlife. Floodplain farmers in the lower basin contend that a spring rise will destroy their lands. That's not what the research modeling indicates.

The current management approach was motivated and compelled by inaccuracies and exaggerated projections. What if we knew fifty years ago that Missouri River navigation and irrigation would never materialize? What if we had anticipated the desire of so many Americans to hunt, fish, camp, hike, paddle or birdwatch along the Missouri River? How would that have changed our approach?

Fifty years ago, the people of the Missouri River region were fighting against the river. Today, they're fighting against each other. Neither approach, we have learned, is as economically and environmentally productive and useful as learning to co-exist with rivers.

In 1952, Time magazine called the Missouri River the most useless river there is. That was a different era, a less informed era, an era filled with mistakes about managing natural resources. Today, people want more from their rivers than just industrial trenches or holding ponds behind dams. The Corps of Engineers can take an important step in righting past mistakes on the Missouri River by adopting dam management techniques that are friendlier to the river. Do we want to continue to kill the Missouri River, or do we want to take real steps that will help heal it?

LOWER BRULE, SOUTH DAKOTA TRANSCRIPT—OCTOBER 30, 2001

PUBLIC HEARING
ACCEPTING COMMENTS REGARDING
MISSOURI RIVER REVISED DRAFT ENVIRONMENTAL IMPACT STATEMENT
MASTER WATER CONTROL MANUAL

PROCEEDINGS HELD AT:

Golden Buffalo Convention Center
Lower Brule, South Dakota 57548

Tuesday, October 30, 2001
7:00 o'clock p.m.

Reported by Carla A. Bachand, RMR, Capital Reporting Services, P.O. Box 903, Pierre, South Dakota 57501 (605) 224-7611.

TUESDAY, OCTOBER 30, 2001

(Colonel David Fastabend gave a short welcome and opening statement, followed by the showing of a video.)

MICHAEL JANDREAU: My name is Michael Jandreau. I am the chairman of the Lower Brule Sioux Tribe. Our address is Box 187, Lower Brule Sioux Tribe, Lower Brule, South Dakota 57548. I come tonight to speak on behalf of the Lower Brule Tribe. Written comments will be submitted in a much more lengthy version at a later date.

First of all, let me say I appreciate your coming here to hold this hearing. I think it's an opportunity for us not only to speak to you directly but to indicate to you our interest in the Missouri River. Having lived all my life on the Lower Brule Reservation and having been born in this area, the river and what happens with it is very important to me. The Master Manual is a fine document and it's a document of expediency that the Corps of Engineers in their process has done a great deal to develop. There are many flaws in that document in as far as how it addresses native concerns. I will speak to very few of those.

The U.S. Fish and Wildlife portion is very troubling for a number of reasons. One of the reasons primarily is that as far as endangered species, Lake Sharpe, which the majority of our reservation is affected by, and Lake Francis Case, there is not a real concern about doing anything about that

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1 particular situation. In fact we are all but excluded. That
2 portion also seems to address the idea of quantification of
3 our water rights, which is not appropriate, which is not
4 acceptable to us as a tribe. The power generation portion,
5 which we have finally been able to access through Western Area
6 Power, has the potential under the variety of the plans of
7 being adversely affected. That's very troubling to me as a
8 tribal leader who is concerned about those benefits that need
9 to accrue to our membership.
10 As far as the fluctuations of the lake, the siltation
11 problem that we have, at least on our reservation, is not
12 solely due to instream flows. Roughly 75 to 80 percent of the
13 siltation that has occurred has occurred as a result of
14 erosion of the shoreline. Big Bend Dam is one of the primary
15 electrical generators for its size and has to be maintained at
16 a more significant stable level than any of the other
17 reservoirs simply because of the generation capacity of that
18 facility. That is good for America but it's terrible for our
19 tribe. We can take you and show you areas of our reservation
20 where the shoreline is now tribal land and it's tribal land
21 because everything that was acquired by the Corps is now in
22 the bottom of the lake and it is encroaching upon our lands.
23 We are in a position now to do something. We can do
24 it cooperatively or we can do it through mechanisms that we
25 all hate, that only make a certain segment of our population

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1 wealthy, and stay in the courthouse forever. It's not in our
2 interests to do that and it's not in the government's
3 interest. We need to address what is contained in that manual
4 more significantly than receiving final comments and going
5 through the finalization, even though we know politically that
6 there are two laws that have been passed whose continued
7 funding, which is beneficial to tribal people as well as to
8 state people and to federal people, that will not receive the
9 funding unless this plan is finalized, and it puts us in a
10 very, very difficult position. We want to do something about
11 trying to correct the errors that have been created. We lack
12 the resources financially and we lack the resources physically
13 to be able to stop or to change what is occurring.
14 As I stated earlier, the siltation is a major problem
15 on our particular reservation. We need more significantly for
16 it to be addressed in a fashion where there is a developed
17 plan resulting from what is stated to adequately deal with
18 this. In the brochure that was sent out, it talked about what
19 has occurred in the years that have gone by since the
20 development of the dams and where approximately the siltation
21 is at. That approximation, by my own physical knowledge of
22 what has happened in that lake here at Lower Brule and
23 adjacent to our reservation, is vastly different. It's far --
24 it has far accelerated what the projected ideals are.
25 The studies that have been done have been minimal to

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meet base requirements and they have not really addressed the plan as to how to deal with this. The plans that are also being currently utilized follow and parrot what is being expressed in the potential of the film that you have. We watch this lake and we watch what happens with it. We watch when there are increased flows to move siltation, even though by verbiage, that is denied. At least in this document, it is being honestly expressed, but it's happening right now.

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And those things create in our minds the ideal that do we really have a true relationship that we are all concerned with or do we have a relationship that a document that lays out guidelines for what is to happen for the next who knows how many years, because I don't think anybody wants to go through the effort again, and we just step back and accept it. We just can't do that.

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And so although my remarks have kind of been all over the place, I hope that you understand my concerns, and we will have a document to you that more expressly and concisely identifies the total of our concerns. Thank you very much for this opportunity.

COLONEL DAVID FASTABEND: Well, Chairman, for someone who was reluctant to stand up, you certainly spoke eloquently and I thank you for your remarks. I have a question. You talked about concerns about the fish and wildlife portion of the document. By that do you mean the portions of the

document that address the Endangered Species Act?

MICHAEL JANDREAU: Yes.

COLONEL DAVID FASTABEND: I wanted to make sure I understood that. Thank you very much.

RICHARD MOORE: John Cooper.

JOHN COOPER: Good evening. I am John Cooper, Secretary for South Dakota Department of Game, Fish and Parks. Our address is the Foss Building, 523 East Capitol, Pierre, South Dakota 57501. I am here to read into the record the joint comments from the South Dakota Department of Environment and Natural Resources and the Department of Game, Fish and Parks on Revised Draft Environmental Impact Statement for the Missouri River Master Water Control Manual.

I want to thank you for this opportunity to provide comments on the Revised Draft Environmental Impact Statement for the Missouri River Master Water Control Manual. As you know, this subject is not new to the Corps, it's not new to the South Dakota Department of Environment and Natural Resources, nor is it new to the Department of Game, Fish and Parks. For the past 12 years, the Corps has been engaged in a process to change the management of the Missouri River. Publication of the Revised Draft Environmental Impact Statement by the Corps, which contains six different alternatives, is a huge step forward. But this is no time to rest. It is time to study the alternatives, make the final

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decisions and move forward with implementing a new Master Manual that definitely works for the river.

Officials of the Corps have said that the final decision or alternative must meet all three of the following objectives. Number one, it must serve congressionally authorized project purposes. Number two, it must serve the contemporary needs of the basin. And number three, it must comply with all applicable laws to include the federal Threatened and Endangered Species Act.

The Department of Game, Fish and Parks and the Department of Environment and Natural Resources agree with using these three criteria to make the final alternative and decision. We believe that approach will result in the best plan for the entire Missouri River basin.

The Corps included the current Water Control Plan as one of the six alternatives in the Revised Draft Environmental Impact Statement. However, using the three criteria above, it is clear that the current 40-year-old Master Manual cannot be the final alternative. When the mainstem dams were built, the vision for the river was one of flood control, hydropower, navigation, and irrigation. While flood control and hydropower followed the vision and have been very successful, irrigation and navigation have not. Less than 10 percent of the land authorized for irrigation under the Flood Control Act of 1944 is irrigated today. Only slightly more than 10

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percent of the annual commercial navigation anticipated under the Flood Control Act of 1944 takes place today, and the Corps currently estimates that to be a $7 million industry.

Clearly the contemporary uses of the Missouri River no longer reflect those 40-year-old visions. Instead of using the river for large scale irrigation and navigation projects, people have found other uses for the Missouri River. Fishing, boating, and recreation uses have increased tenfold and recreation is now estimated at an annual $87 million industry in the basin. However, the current Master Manual drains the upper basin reservoirs during even moderately dry periods to maintain navigation flows downstream and therefore leaves recreational users high and dry. Therefore, the contemporary uses of the river demand that changes are made to the Master Manual and keeping the current Master Manual is simply not an acceptable option.

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The remaining five alternatives in the Revised Draft Environmental Impact Statement share several of the following changes from the existing Master Manual, all of which we strongly support. Number one, adaptive management. In a river whose watershed encompasses one-sixth of the continental United States, there will never be what is termed normal conditions. There will be constant changes in the weather patterns, the runoff, and river uses. Consequently, giving the Corps the authority and flexibility to address constantly

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1 changing conditions must be a component of the final
2 decision. Having the Corps locked into the current inflexible
3 Master Manual makes no sense at all. It breeds hostility
4 between the users of the river and has driven certain species
5 onto the federal threatened and endangered species List.
6 Number two, drought conservation measures. The
7 current Master Manual does very little for water
8 conservation. America has entered a new era. We are no
9 longer a country with unlimited natural resources. Upper
10 basin states know conservation measures are important because
11 we have seen the consequences of river management with little
12 or no conservation measures under the current Master Manual.
13 Low water levels in upper basin reservoirs eliminate those
14 recreational uses, devastate local economies, and increase the
15 risk of having catastrophic drought impacts downstream. It is
16 absolutely critical, then, that drought conservation measures
17 be part of the final decision.
18 Number three, unbalancing of the upper three
19 reservoirs. Unbalancing the reservoirs will improve habitat
20 conditions for nesting terns and plovers and trigger spawning
21 for the pallid sturgeon. At the same time, unbalancing of the
22 reservoirs provides benefits to other fisheries in these three
23 lakes. Game, Fish and Parks and the Department of Environment
24 and Natural Resources support the concept of unbalancing and
25 recommend that it be a component of the final decision.

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1 Number four, flow modifications from Fort Peck
2 reservoir. Construction of the mainstem reservoirs have had
3 very negative effects on several of our native river species.
4 Flow modification from Fort Peck is a logical and reasonable
5 approach to help restore these species. If these species can
6 be restored, the entire basin benefits by avoiding the
7 potential court-ordered management of the river through the
8 Endangered Species Act. Game, Fish and Parks and DENR
9 strongly support the concept of flow modifications from Fort
10 Peck whenever water availability makes those flows feasible.
11 Four of the alternatives in the Revised Draft
12 Environmental Impact Statement share the following attribute,
13 which Game, Fish and Parks and Department of Environment and
14 Natural Resources also recommend. Flow modifications from
15 Gavins Point Dam. As mentioned above, construction of the
16 mainstem reservoirs has had very negative impacts on several
17 of our native river species. Flow modifications from Fort
18 Peck, when water availability makes it feasible, has been
19 largely agreed upon as a way to help restore these species.
20 However, proposed flow modifications from Gavins Point have
21 been much more controversial. The Department of Game, Fish
22 and Parks and the Department of Environment and Natural
23 Resources support flow modifications from Gavins Point Dam for
24 the same reasons as we support the flow modifications from
25 Fort Peck reservoir.

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Of the four alternatives in the Revised Draft Environmental Impact Statement that contain flow modifications from Gavins Point, Department of Game, Fish and Parks and the Department of Environment and Natural Resources strongly support the Corps having the ability to implement GP20/21 alternative through adaptive management. The science behind this alternative has gained nearly universal support from the technical fish and wildlife community and it provides maximum recreational benefits to the state of South Dakota. Missouri River recreation is critical to South Dakota's economy and its quality of life.

This concludes our comments and recommendations for the Revised Draft Environmental Impact Statement. Using the criteria established by the Corps for selecting the final alternative, the Department of Game, Fish and Parks and the Department of Environment and Natural Resources are confident that our recommendations will become the Corps's final decision. We look forward to working with the Corps and the other basin states to implement the new Master Manual and to maximize those beneficial uses and quality of life throughout the entire Missouri River basin.

And these comments are signed jointly by John Cooper, Secretary of Game, Fish and Parks, and by Steve Pirner, who is the Secretary of Environment and Natural Resources Department.

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COLONEL DAVID FASTABEND: Thank you, Mr. Cooper. Appreciate your comments.

RICHARD MOORE: Nell McPhillips.

NELL McPHILLIPS: Good evening. My name is Nell McPhillips and I am here this evening on behalf of the U.S. Fish and Wildlife Service to issue a brief statement on the Revised Draft EIS for the Missouri River Master Water Control Manual. I am also here to listen to the comments in person from tribal people on this important issue.

The Service has primary authority for oversight of our nation's rarest animals under the Endangered Species Act. The Missouri River is home to the endangered pallid sturgeon and least tern, and the threatened piping plover. The decline of these species tells us that the river is not healthy for its native fish and wildlife and that there needs to be a change in its management to restore the Missouri to a more naturally functioning river system. A healthy river provides wildlife habitat, supports fishing, and makes boating an attractive recreational activity.

Congress committed the federal government to preventing extinctions by requiring federal agencies to use their authorities to conserve endangered and threatened species. During the last 12 years our agency has been working with the Corps of Engineers to modernize the management of the Missouri River to help stabilize and hopefully begin to

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increase and recover populations of these very rare animals. This new approach was recently described in a document called the Missouri River Biological Opinion, which was published in November of 2000.

The Biological Opinion looks at the river as a system and outlines the status of these rare species, the effects of the current operation on them, and a reasonable and prudent alternative to the current operation that will not jeopardize their continued existence.

Our biological opinion is based on the best available science and includes nearly 500 scientific references. In addition, we have sought out six respected scientists or big river specialists who confirm the need to address flow management as well as habitat restoration. Further, the Missouri River Natural Resources Committee, a group comprised of state experts on Missouri River management, endorses the science used in the opinion.

If you have read the Revised Draft EIS or summary document, you understand that the GP alternatives encompass the range of flows identified by the Service as necessary below Gavins Point Dam to keep the listed species from being jeopardized. Our agency and the Corps also recognize the importance of some flexibility in management that would enable Missouri River managers to capitalize on existing water conditions to meet endangered species objectives without

having to go through another 12-year process.

Other management changes identified in the biological opinion include a spring rise out of Fort Peck Dam, an improved hatchery operation to assist declining pallid sturgeon populations, restoration of approximately 20 percent of the lost aquatic habitat in the lower third of the river, intrasystem unbalancing of the three largest reservoirs, and acceptance of an adaptive management framework that would include improved overall monitoring of the river.

In closing, the Service supports the identified goal of the revised Master Manual, to manage the river to serve the contemporary needs of the Missouri River basin and the nation. These needs include taking steps to insure that threatened and endangered species are protected while maintaining many other socioeconomic benefits being provided by the operation of the Missouri River dams. The Service stands behind the science used in the opinion and is confident that the operational changes identified in our opinion and included in the Revised Draft EIS as GP alternatives will insure these rare species continue to be part of the Missouri River's living wildlife legacy.

The Missouri River is a tremendous river with a significant and revered heritage. Our influence has altered the river greatly. Changes are needed to modernize and restore health to the river for the benefit of rare species

and for people, too. Thank you.

COLONEL DAVID FASTABEND: Thank you, Ms. McPhillips.

RICHARD MOORE: Patrick Spears.

PATRICK SPEARS: If you don't mind, I would like to stand here, too. I feel more comfortable speaking to you people than having you look at my back. My name is Patrick Spears. I am the president of Intertribal Council on Utility Policy, address is P.O. Box 224, Fort Pierre, South Dakota. I represent eight tribes in North Dakota, South Dakota and Nebraska, those being Spirit Lake Tribe, Three Affiliated Tribes, Standing Rock Sioux Tribe, Cheyenne River Sioux Tribe, the Lower Brule Sioux Tribe, Rosebud Sioux Tribe, Flandreau Sante Sioux Tribe, and the Omaha Tribe in Nebraska. I am a member of the Lower Brule Sioux Tribe and represent my tribe Intertribal Council on Utility Policy, our acronym is ICOUP.

I am thankful that you have come here to Lower Brule to host this hearing. I thank you and my tribal leadership here for hosting this meeting and all of you for coming. I know that you have a myriad of problems that are impacts of the Missouri River because of the reservoir system. And we all have a particular interest in some of those, from the endangered species, cultural resources, shoreline protection, managing the upstream versus downstream interests of recreation, navigation, and flood control and power generation.

Other 214

I have come to offer an alternative, which has not been addressed or enlisted in the Revised EIS for the Master Control Manual and that is the generation of wind energy, which I think could help, being blended into the power and become a significant part of the power that's generated by the reservoir system and that has to meet contracts with all of the customers that are all around this area, within the state and most of the majority of which are out of state.

We have a tremendous potential for wind energy here in the Great Plains. The Department of Energy estimates that 75 percent of the energies of this country could be met through wind energy if it were all harnessed and the transmission would accommodate that. The reservoir system generates approximately 2500 megawatts annually. On the reservations alone it's been estimated by the National Energy Laboratory that 100 times that amount could be generated on the reservations alone. That's over 250,000 megawatts. We are asking that a portion of that power be developed in concert with the Corps of Engineers to help minimize this problem that's created by lower water levels created by less precipitation and runoff.

HPower 13

We have seen over the past decade the lowest water levels in the reservoir in history and I guess it's quoted even this coming year may be the lowest level yet and the lowest year for power production, yet the greatest need for

17

the need to buy supplemental power to meet contractual obligations of the 20-year contracts. What we are proposing is that the Corps consider the merging of wind and hydropower and blending that into the power that's generated throughout the year, and we think that is possible because of your peak seasons being winter, and in summertime in particular, there are higher demands. It would complement the strong wind seasons we have here, beginning October through March.

Other 214

That power could be generated into the system and fed into it all along the river and into the WAPA power lines by intertribal wind farm operations. That could be happening all along the year and it could be balancing. We realize that needs some study and we would encourage you to support that, as we are encouraging our congressional delegation to do so also.

We work with a number of other intertribal organizations across the country on policy and legislative recommendations affecting energy use and the generation of this country. We think tribes can significantly contribute to the energy economy and our own restoration of our economy, which have been greatly impacted by the construction of the reservoir system, and contribute to the energy security of the United States. And we think that this can be done in partnership with the Corps, that is probably unprecedented in that we have been at odds with the Corps, as well as many

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18

states have and a number of groups have been over all of these issues that are impacted there.

We think it's a time of cooperation that is needed right now. There has never been a stronger need for it. If you look at the flow of the river and the climate change scenarios that are projected, the climate variability models, it looks to be that one of less precipitation. In the last 12 years it has probably shown that. If so, you need to be ready with a plan and an alternative to address that, because with the need to buy supplemental power on the market, the cost of power is going to be going up and that's going to drive up that cost of power for all of the customers, and we as tribal governments, who have gotten some of that power for the first -- other than irrigation use for the first time in history in January 2001 and now, that has taken some 30 years, and actually it's more than that, since the '44 Flood Control Act, but it's been a long time.

Now if that power that has been paid for we feel over and over again by the taking of our land and the economic recovery that we are still in, if that's going to be going up, that negates all of that effort that's went into that to date and we think that is wrong and we should do something about it.

To give you an idea of the economic sense of this for all of us that are here, we have seen over the past four years

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the amount of supplemental power that WAPA has had to purchase on the spot market go from 30 to 40, 50 million to 140 million in June of this year, since October 1 of 2000. The Corps of Engineers has projected that's going to be at that same rate 240 million in 2002, so we are offering to partner with you in generation so that we can stabilize the limited and decreasing water level of the Missouri River, and hopefully help the economies of everybody that's affected by the flow of the river and impact all those areas that you are dealing with and that often have ended up in court and may do so again.

As our chairman on Lower Brule just indicated, nobody wants to go there again. It's been our time in court, we have better things to do and it's time to take a look at a new way of looking at management of the river and of the energy that's produced from there. So we have put this together in a written document also, which I am leaving with you, and I would just encourage you to give it some serious thought, discuss it with the other tribes. I do commend you for consulting with each of the tribes at these hearings. I understand there may be more to come, some of our relatives up the river, and I think that is the best thing that you can do. So I thank you for that and this time to talk to you.

COLONEL DAVID FASTABEND: Thank you, Mr. Spears. Is there anyone else that would like to make a statement tonight? Well, in closing I would like to remind you that the

hearing administrative record is going to be open through 28 February 2002 for anyone wishing to submit written facts or electronic comments. Also if you would like to be on our mailing list or receive a copy of the transcript, you need to fill out one of the cards available at the table at the back. If there are no further comments, I want to once more thank Chairman Jandreau and the Lower Brule Sioux Tribe for requesting and participating in this hearing on their tribal homelands. This session is closed. Thank you.

(Whereupon, the proceedings were concluded at 8:20 p.m.)

CERTIFICATE

STATE OF SOUTH DAKOTA)
) ss.
COUNTY OF HUGHES)

I, Carla A. Bachand, RPR, CM, Freelance Court Reporter for the State of South Dakota, residing in Pierre, South Dakota, do hereby certify:

That I was duly authorized to and did report the testimony and evidence in the above-entitled cause;

I further certify that the foregoing pages of this transcript represents a true and accurate transcription of my stenotype notes.

IN WITNESS WHEREOF, I have hereunto set my hand on this the 5th day of November, 2001.

Carla A. Bachand
Carla A. Bachand, RPR, CM
Freelance Court Reporter
Notary Public, State of South Dakota
Residing in Pierre, South Dakota.

My commission expires: June 10, 2006.

CAPITAL REPORTING SERVICES
(605) 224-7611

South Dakota
GREAT FACES. GREAT PLACES.

October 29, 2001

U.S. Army Corps of Engineers
Attn: Project Manager, Master Manual Review and Update
12565 West Center Road
Omaha, NE 68144

Re: Comments from South Dakota Department of Environment & Natural Resources and Game, Fish & Parks on Revised Draft Environmental Impact Statement for the Missouri River Master Water Control Manual

Dear Project Manager:

Thank you for the opportunity to provide comments on the Revised Draft Environmental Impact Statement for the Missouri River Master Water Control Manual. This subject is not new to the Corps, South Dakota Department of Environment & Natural Resources (DENR) or Game, Fish & Parks (GF&P). For the past twelve years, the Corps has been engaged in a process to change the management of the Missouri River. Publication of the Revised Draft Environmental Impact Statement by the Corps which contains six different alternatives is a huge step forward. But this is no time to rest. It is time to study the alternatives, make the final decisions, and move forward with implementing a new Master Manual that works for the river.

Officials of the Corps have said the final decision or alternative must meet all three of the following objectives:

1. it must serve congressionally authorized project purposes;
2. it must serve the contemporary needs of the basin; and
3. it must comply with all applicable laws to include the federal Threatened and Endangered Species Act.

GF&P and DENR agree with using these three criteria to make the final alternative and decision. We believe that approach will result in the best plan for the entire Missouri River basin.

The Corps included the current Water Control Plan as one of the six alternatives in the Revised Draft Environmental Impact Statement. Using the three criteria above, it is clear the current 40-year old Master Manual cannot be the final alternative. When the mainstem dams were built, the vision for the river was one of flood control, hydropower, navigation, and irrigation. While flood control and hydropower followed the vision and have been very successful, irrigation and navigation have not. Less than 10 percent of the land authorized for irrigation under the Flood

Control Act of 1944 is irrigated today. Only slightly more than 10 percent of the annual commercial navigation anticipated under the Flood Control Act of 1944 takes place today, and the Corps estimates it to be $7 million industry.

Clearly, the contemporary uses of the Missouri River no longer reflect those 40-year old visions. Instead of using the river for large-scale irrigation and navigation projects, people have found other uses for the river. Fishing, boating, and recreation uses have increased ten-fold, and recreation is now an annual $87 million industry in the basin. However, the current Master Manual drains the upper basin reservoirs during even moderately dry periods to maintain navigation flows downstream and leaves recreational users high and dry. Therefore, the contemporary uses of the river demand that changes are made to the Master Manual and keeping the current Master Manual is simply not an acceptable option.

The remaining five alternatives in the Revised Draft Environmental Impact Statement share several of the following changes from the existing Master Manual, all of which we strongly support:

- **Adaptive management -** In a river whose watershed encompasses one-sixth of the continental United States, there will never be "normal" conditions. There will be constant changes in the weather patterns, runoff, and river uses. Consequently, giving the Corps the authority and flexibility to address constantly changing conditions must be a component of the final decision. Having the Corps locked into the current inflexible Master Manual makes no sense, breeds hostility between the users of the river, and has driven certain species onto the federal threatened and endangered species list.
- **Drought conservation measures -** The current Master Manual does very little for water conservation. America has entered a new era. We are no longer a country with unlimited natural resources. Upper basin states know conservation measures are important because we have seen the consequences of river management with little or no conservation measures under the current Master Manual. Low water levels in upper basin reservoirs eliminate recreational uses, devastate local economies, and increase the risk of having catastrophic drought impacts downstream. It is absolutely critical that drought conservation measures be part of the final decision.
- **Unbalancing of the upper three reservoirs -** Unbalancing the reservoirs will improve habitat conditions for nesting terns and plovers and trigger spawning for the pallid sturgeon. At the same time, unbalancing of the reservoirs provides benefits to other fisheries in these three lakes. GF&P and DENR support the concept of unbalancing and recommend it be a component of the final decision.
- **Flow modifications from Fort Peck reservoir -** Construction of the mainstem reservoirs has had very negative impacts to several of the native river species. Flow modification from Fort Peck is a logical and reasonable approach to help restore these species. If these species can be restored, the entire basin benefits by avoiding the potential court-ordered management of the river through the Endangered Species Act. GF&P and DENR strongly support the concept of flow modifications from Fort Peck when water availability makes it feasible.

Four of the alternatives in the Revised Draft Environmental Impact Statement share the following attribute, which GF&P and DENR also support:

- **Flow modifications from Gavins Point dam -** As mentioned above, construction of the mainstem reservoirs has had very negative impacts on several native river species. Flow modification from Fort Peck when water availability makes it feasible has been largely agreed upon as a way to help restore these species. However, proposed flow modifications from Gavins Point have been much more controversial. GF&P and DENR support flow modifications from Gavins Point dam for the same reasons as we support flow modifications from Fort Peck.

Of the four alternatives in the Revised Draft Environmental Impact Statement that contain flow modifications from Gavins Point, GF&P and DENR strongly support the Corps having the ability to implement the GP20/21 alternative through adaptive management. The science behind this alternative has gained nearly universal support from the technical fish and wildlife community and provides maximum recreational benefits for South Dakota. Missouri River recreation is critical to South Dakota's economy and quality of life.

This concludes our comments and recommendations for the Revised Draft Environmental Impact Statement. Using the criteria established by the Corps for selecting the final alternative, GF&P and DENR are confident our recommendations will become the Corps' final decision. We look forward to working with the Corps and the other basin states to implement the new Master Manual and maximize the beneficial uses and quality of life throughout the entire Missouri River basin.

Sincerely,

John L. Cooper
Secretary
Game, Fish & Parks

Steven M. Pirner
Secretary
Environment & Natural Resources

cc: Governor William J. Janklow
U.S. Senator Tom Daschle
U.S. Senator Tim Johnson
U.S. Congressman John Thune

U.S. Fish and Wildlife Service
Public Comments
Missouri River Master Manual Hearing
Lower Brule, South Dakota, October 30, 2001

Good evening, my name is Nell McPhillips and I'm here this evening on behalf of the U.S. Fish and Wildlife Service to issue a brief statement on the Revised Draft Environmental Impact Statement for the Missouri River Master Water Control Manual. I'm also here to listen to the comments in person from citizens on this important issue.

The Service has primary authority for oversight of our nation's rarest animals under the Endangered Species Act. The Missouri River is home to the endangered pallid sturgeon and least tern, and the threatened piping plover. The decline of these species tells us that the river is not healthy for its native fish and wildlife, and that there needs to be a change in its management to restore the Missouri to a more naturally functioning river system. A healthy river provides wildlife habitat, supports fishing, and makes boating an attractive recreational activity.

Congress committed the Federal Government to preventing extinctions by requiring Federal agencies to use their authorities to conserve endangered and threatened species. During the last 12 years our agency has been working with the U. S. Army Corps of Engineers to modernize the management of the Missouri River to help stabilize and hopefully, begin to increase and recover populations of these vary rare animals. This

new approach was described recently in a document called the "Missouri River Biological Opinion," published in November 2000.

The biological opinion looks at the river as a system and outlines the status of these rare species, the effects of the current operation on them, and a reasonable and prudent alternative to the current operation that will not jeopardize their continued existence.

Our biological opinion is based on the best available science and includes nearly 500 scientific references. In addition, we've sought out 6 respected scientists -- "big river specialists" -- who confirmed the need to address flow management, as well as habitat restoration. Further, the Missouri River Natural Resources Committee, a group comprised of the state experts on Missouri River management, endorses the science in the opinion.

If you have read the RDEIS or summary document, you understand that the "GP alternatives" encompass the range of flows identified by the Service as necessary below Gavin's Point Dam to keep the listed species from being jeopardized. Our agency, and the Corps, also recognized the importance of some flexibility in management that would enable Missouri River managers to capitalize on existing water conditions to meet endangered species objectives without having to go through another 12-year process.

Other management changes identified in the biological opinion include a "spring rise" out

of Fort Peck Dam, an improved hatchery operation to assist declining pallid sturgeon populations, restoration of approximately 20% of the lost aquatic habitat in the lowest 1/3 of the river, intrasystem unbalancing of the three largest reservoirs, and acceptance of an adaptive management framework that would include improved overall monitoring of the river.

In closing, the Service supports the identified goal of the revised master manual - to manage the river to serve the contemporary needs of the Missouri River Basin and Nation. These needs include taking steps to ensure that threatened and endangered species are protected while maintaining many other socioeconomic benefits being provided by the operation of the Missouri River dams. The Service stands behind the science used in the opinion, and is confident that the operational changes identified in our opinion, and included in the RDEIS as GP alternatives will ensure that these rare species continue to be a part of the Missouri River's living wildlife legacy.

The Missouri River is a tremendous river, with a significant and revered heritage. Our influence has altered the river greatly. Changes are needed to modernize and restore health to the river – for the benefit of rare species and for people, too.

ST. JOSEPH, MISSOURI TRANSCRIPT— NOVEMBER 1, 2001

ROBERTS & ASSOCIATES BY TOM ROBERTS, RPR, CCR

US ARMY CORPS OF ENGINEERS

NORTHWESTERN DIVISION

OMAHA, NEBRASKA

IN RE: MISSOURI RIVER STUDY

TRANSCRIPT OF PROCEEDINGS

BE IT REMEMBERED that on Thursday, November 1, 2001, the US Army Corps of Engineers met in a Public Hearing at 7:00 p.m., at the Holiday Inn Riverfront Hotel, St. Joseph, Missouri, at which time the above entitled cause came on for hearing before Colonel David Fastabend, Hearing Officer.

A P P E A R A N C E S

CHAIRMAN:	COLONEL DAVID FASTABEND
TEAM MEMBERS:	LARRY CIESLIK
	ROY MCALLISTER
	DOUG LATKA
	PATTI LEE
	ROSEMARY HARGRAVE
	PAUL JOHNSON
	RICHARD MOORE
	JODY FARHAAT

ROBERTS & ASSOCIATES BY TOM ROBERTS, RPR, CCR

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P R O C E E D I N G S

(Hearing commenced at 7:00 p.m.)

HEARING OFFICER: If I can have your attention. If you will take a seat, we will go ahead and get the proceedings under way.

I would like to welcome all of you to this evening's comment session on the Revised Draft Environmental Impact Statement for the Missouri River Master Manual.

My name is Colonel David Fastabend, I'm the Commander of the Northwestern Division of the Corps of Engineers. I have oversight of five engineer districts and two river basins, the Columbia River Basin and the Missouri River Basin, and I'm glad to be here tonight.

I've got a team that helps me, they do this project, I try to keep up with them. I would like to point them out to you.

Rose Hargrave. Can you raise your hand? She's back by the door.

Roy McAllister in the right rear of the room. Jody Farhat in the left rear of the room. Paul Johnson is right up here in the

1 front. We have Mr. Rick Moore off to the side
2 and he will be here helping me control the
3 proceedings tonight. Patti Lee. There's
4 Patti off to the side. Mr. Doug Latka and
5 Larry Cieslik.
6 That's the Missouri River Master Manual
7 team.
8 I also have the District Engineer for
9 Kansas City district, Colonel Don Curtis, he's
10 here tonight, also.
11 Let me tell you the important part of my
12 message right up front. The Corps of
13 Engineers has a mission to conduct a fair and
14 equitable process in accordance with the
15 National Environmental Policy Act. And we are
16 fully committed to getting maximum public
17 participation in that process.
18 The Army and the Corps and the nation
19 have dealt with many, many contentious issues
20 in our history, and we are totally convinced
21 that if you have a contentious issue of the
22 nature of the issue we're dealing with with
23 respect to the Missouri River, that you can
24 develop a process that maximizes the input of
25 the parties concerned ultimately you're going

1 to be better off. You may experience a little
2 bit of pain in getting there, but ultimately
3 you will be better off and have a better
4 chance of developing a product, developing a
5 conclusion that best achieves success.
6 There's a lot of passion about the
7 Missouri River. I will tell you the Corps of
8 Engineers is passionate about the Missouri
9 River. We've invested a lot of our reputation
10 as an institution in the Missouri. We want to
11 see all the communities along the river
12 succeed. We want to see the river succeed.
13 We're committed to that.
14 We are responsible to discharge multiple
15 purposes for the river, we're looking for
16 solutions that will do that while recognizing
17 and adhering to all laws and statutes that we
18 have to adhere to. That's what we're about
19 tonight.
20 We're going to start out with a video,
21 and then after the video, I will give you some
22 more formal comments as we open up this
23 process.
24
25 (Off the record.)

(Video started at 7:10 p.m., and concluded at 7:40 p.m.)

(Back on the record.)

HEARING OFFICER: The hearing session will now come to order.

Our purpose this evening is to conduct a public hearing on proposed changes to the guidelines for the Missouri mainstem system operations.

Before I proceed, I have some elected officials or representatives here who I would like to acknowledge. I won't try to acknowledge all of the many elected officials that are here, but I do want to note some.

In particular, we have Mr. Matt Roney who is representing Senator Kit Bond.

We have Mr. Terry Ecker who is representing Congressman Sam Graves.

Mr. Lowell Mohler who is representing Governor Holden.

Mr. David Pope who is representing Governor Graves.

And we also have here tonight Mr. Stobbs,

who is our Mayor here in St. Joseph.

The hearing is being recorded to night by Thomas Roberts of Roberts and Associates. He'll be taking verbatim testimony that will be the basis for the official transcript and record of this hearing. This transcript with all written statements and other data will be made a part of the administrative record for action. Persons who are interested in obtaining a copy of the transcript for this session or any other session can do so. Persons interested in receiving a copy need to indicate this on one of the cards available at the table by the entrance.

Also, if you are not on our mailing list and desire to be so, please indicate this in the card.

Now, in order to conduct an orderly hearing tonight, it is essential that I have a card from everyone desiring to speak. Give your name on that card and who you represent. If you desire to make a statement and have not filled out a card, if you would raise your hands right now, we'll make sure we can furnish a card to you.

1 The primary -- we have a hand up front.
2 The primary purpose of tonight's session
3 is help ensure that we have all the essential
4 information that we will need to make our
5 decision on establishing the guidelines for
6 the future operations of the mainstem system
7 and that this information is accurate. This
8 is your opportunity to provide us with some of
9 that information.
10 We view this as a very important
11 opportunity for you to have an influence on
12 the decision, therefore, we are all very glad
13 you're here tonight.
14 I want you to remember that tonight's
15 forum is to discuss the proposed changes in
16 the operation of the Missouri River mainstem
17 system as analyzed recently in the Revised
18 Draft of the Environmental Impact Statement.
19 We should concentrate our efforts this evening
20 on issues specific to that question and should
21 refrain from discussing other general issues.
22 It is my intention to give all interested
23 parties an opportunity to express their views
24 on the proposed changes freely, fully and
25 publicly. It is in the spirit of seeking a

1 full disclosure and providing an opportunity
2 for you to be heard regarding the future
3 decision that we have called this hearing.
4 Anyone wishing to make a statement will be
5 given the opportunity to do so.
6 The Missouri River mainstem system
7 consists of Corps of Engineers constructed and
8 operate projects, so that officially this
9 makes the Corps a project proponent.
10 However, it is our intention that the
11 final decision on the future operational
12 guidelines for these projects should reflect a
13 plan that considers the views of all
14 interests, focuses on the contemporary and
15 future needs of the mainstem system and meets
16 the requirements established by Congress.
17 As Hearing Officer, my role and
18 responsibility is to conduct this hearing in
19 such a manner as to ensure a full disclosure
20 of all relevant facts bearing on the
21 information that we currently have before us.
22 If the information is inaccurate or
23 incomplete, we need to know that, and you can
24 help us make this determination.
25 Ultimately, the final selection of a plan

that provides the framework for the future operation of the mainstem system will be based on the benefits that may be expected to accrue from the proposed plan as well as the probable negative impacts, including cumulative impacts. This includes significant social, economic and environmental factors.

Should you desire to submit a written statement and do not have it prepared, you may send it at a later time to the United States Army Corps of Engineers, Northwestern Division, headquarters in Omaha, Nebraska. And we have address cards here in the back of the room that will give you the information you need to send that or fax it or e-mail it.

The official record for this hearing will be open until 28 February 2002. To be properly considered, any written statement you submit must be postmarked by that date.

Before I begin taking testimony, I would like to say a few words about the order and procedure that will be followed. When we call your name, please come forward to the lectern state your name and address and specify whether or not you are representing a group,

an agency, an organization, or if you are speaking as an individual.

You will be given five minutes to complete your testimony. If you're going to read a statement, we would appreciate it if a copy would be provided to the court reporter prior to speaking so that he will not have to take your remarks down verbatim.

After all the statements have been made, time will be allowed for any additional remarks.

During the session, I may ask questions to clarify points for my own satisfaction.

Since the purpose of this public hearing is to gather information which will be used in evaluating the proposed plan or alternatives to the proposed plan, and since open debate between members of the audience would be counter-productive to this purpose, I must insist that all comments be directed to me, the Hearing Officer. With the exception of public officials or their representatives who will speak first, speakers will be given an equal opportunity to comment.

Please remember most speakers will be

1 limited to five minutes. And we'll be using a
2 lighted timer. When the yellow light comes
3 on, it means you have two minutes of time
4 remaining. When the red light comes on, your
5 five minutes are up. No portion of unused
6 time allotted to each speaker may be
7 transferred to any other presenter. The
8 purpose of the hearing is to permit members of
9 the public an equal opportunity to concisely
10 present their views, information or evidence.
11 At this time I will begin calling the
12 names of those who have submitted cards
13 beginning with the elected officials.
14 And let's first have the representative
15 from Senator Bond's office, Mr. Matt Roney.
16
17 (Whereupon Mr. Matt Roney read his
18 prepared statement, which is attached
19 to the transcript.)
20
21 HEARING OFFICER: Thank you, Mr.
22 Roney.
23 On the topic of request for extension of
24 the process, I would just like to explain to
25 the public we've had multiple requests that

1 the comment period be extended. Our response
2 has been consistent, and I just recently
3 signed the response so I suspect Senator Bond
4 has not had a chance to receive it yet.
5 But basically, what we are assessing is
6 the period required by law for comment on
7 these issues is 45 days. We have a 180-day
8 comment period because the issue is more
9 complex. We are trying to maintain our
10 schedule to advance this process and we intend
11 to maintain the schedule, however, we are
12 leaving open the option of additional hearings
13 at the close of the period at which we
14 currently have hearings.
15 So there's a possibility that we'll
16 entertain additional requests for hearings in
17 the December, January time frame, still
18 working towards our 28 February 02 time to
19 close out the comment period.
20 We recognize we will probably have some
21 additional hearings and additional
22 opportunities to comment.
23
24 MR. MOORE: Amy Jordan Wooden.
25 MS. WOODEN: My name's Amy Jordan

Wooden, I'm here representing US Senator Jean Carnahan. I don't have a prepared statement tonight, but I thought it was important to go on the record as having been present at this very important hearing. Senator Carnahan will be submitting detailed testimony at the hearing in Jefferson City, I believe next week is when that will be held.

Again, though, I did think it was important to go on record tonight, though, saying that Senator Carnahan obviously understands this has been a very long, a very important and contentious debate, one that her late husband, Mel Carnahan, fought very hard for while he served as governor of the State of Missouri.

Senator Carnahan continues that fight in the US Senate, will continue to work with Senator Bond on this issue and with our colleagues in the House to make sure that Missouri's families are protected from flood waters, to make sure that Missouri's farm families are not denied any option and that we can continue to come up with a reasonable solution that Missourians can live with.

FC 8

Thank you.

HEARING OFFICER: Thank you, Miss Wooden.

MR. MOORE: Terry Ecker.

MR. ECKER: Terry Ecker, I'm a field representative for Senator Sam Graves here to provide testimony on his behalf.

(Whereupon Mr. Ecker read a prepared statement, which is attached to the transcript.)

HEARING OFFICER: Thank you, Mr. Ecker.

MR. MOORE: Lowell Mohler.

MR. MOHLER: I'm Lowell Mohler, I serve as Director of Agriculture for the State of Missouri.

(Whereupon Mr. Mohler read a prepared statement, which is attached to the transcript.)

HEARING OFFICER: Thank you, Mr.

1 Mohler.
2 MR. MOORE: David Pope.
3 MR. POPE: Good evening, Colonel
4 Fastabend and others here this evening, I
5 appreciate the opportunity to provide comments
6 this evening on the Revised Draft
7 Environmental Impact Statement for the
8 Missouri River Master Manual review.
9
10 (Whereupon Mr. Pope read a prepared
11 statement, which is attached to the
12 transcript.)
13
14 HEARING OFFICER: Thank you, Mr.
15 Pope.
16 MR. MOORE: Larry Stobbs.
17 MR. STOBBS: Good evening, my
18 name's Larry Stobbs, I'm the Mayor of the City
19 of St. Joseph, Missouri, the city that has
20 been along the Missouri River for 158 years.
21 I saw your facts and figures and I've listened
22 to some of these folks here that have a great
23 staff of experts that can analyze that and
24 give you better answers than I can, so I think
25 just from a north Missourian what I'm going to

1 propose is what we probably would not like to
2 see in your plan rather than get into specific
3 numbers, and we'll let those with a little
4 higher knowledge of this get to that.
5 We are opposed to the higher reservoir
6 levels in the upper basin because this would
7 be a detriment to the water that's committed
8 to the lower basin for several uses.
9 The navigation -- our drinking water, of
10 course, we changed about a year ago, we use
11 well water now instead of Missouri River
12 water. In the last few years we've lost water
13 twice, once because we didn't have enough
14 because the river was too low and once because
15 we didn't have any water because the river was
16 too high. In fact, it was about halfway up
17 our water plate.
18 We're familiar with those cities in
19 Missouri and in Kansas and the other states
20 that do use the Missouri River water, and I'll
21 tell you, if you've ever been without water
22 and you have to rely on the National Guard to
23 truck it in in trucks, in big tanks, you
24 appreciate the river more every day.
25 We're oppose to the rising spring -- the

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IntD 8

spring rise that could result in flooding and inland drainage problems.

I remember just before I became mayor and shortly after I did, I got to talk to the Corps of Engineers about their first plan, and now this is the second time, but we're kind of the head waters of Lake Missouri. And if you look from the air, you saw a rather large lake that ran from St. Joseph to St. Louis and spread out over several miles. And so we know what flooding is about. It inundated a bunch of our farmlands, but it also was very damaging to business and industry that are along the river that have been here for many, many years.

This is something that we -- I guess I was trying to think of the best way to say it and, Colonel, I guess if you can get God on your team, then you'll be able to figure out what to let in and out, but unfortunately you don't have that and that's what happened to us in 1993. He had different flood plans than you did and he forgot to tell you about them and he injected that after you let your water out and we got the results of it. So we're

FC 6

very opposed to something that maybe in a hundred years it may not happen, but you only have to live through one of those and you don't want it to happen even in once in a hundred years.

Nav 12, 8

We're strongly opposed to the reduction of the summer flows because of navigation in particular. After 158 years, it's sad for me to say, but St. Joseph is here because of the river, but we never took advantage of it.

Now we're building a river port in St. Joseph finally and I'm very proud of that. And now we don't want to jeopardize our ability to transport farm products and manufacturing raw materials and finished products from northwest Missouri down and up, both, the Missouri River, and this could certainly jeopardize something we've worked very hard to obtain after all these years and have that jeopardized.

I'm not so much worried about a railroad monopoly or a truck monopoly, but certainly both of those are taking place, and in all the figures that I've seen both of these are more costly than barge traffic.

As we look at pollution, that has to do with our environment just like the three species that you're talking about in your study. You talk about fuel consumption, and that has to do with our foreign reliance on those things, and then the fuel policy. There's a lot of things that enter into this that now the river is more important I think today than it's been in the last 200 years to this nation, and particularly the northwest Missouri.

Nav 23

We believe that you should manage the river to take care of the species and habitat, but in a sensible manner that does not jeopardize the lives and the livelihoods of the citizens that live along this river and rely on it, because if you look at the country and the world, we're in the feed belt of the world here. Corn, beans, those things that the rest of world relies on eating and preventing starvation, and our farmers are the ones that provide that.

EnSp 3

FC 6

And I think that even though I believe in God's creatures and want to protect them, when it comes between me and a fish or a bird, I

think I'm going to pick me first and I'll have to do that for my constituents because we do rate a little higher in the stack of things that we have.

So I know that you have, and I'm going to get the red light here in a minute which I probably won't pay any attention to like the rest of them did, but I'm not a senator, and I'm famous for that.

I think that I fully understand and I believe that eight years ago when I was before the court at that time, that I said the same thing. In being a public official and a mayor of a community, and I only have 75,000 people and thank God I don't have the number and I don't know what your number is, but it's a lot more than that, but you have to try to come up with something. And I know that your intent is honorable to balance that and it's going to be very difficult to do. So I certainly wouldn't want your job, and I know that you are taking notes, you will put these things in perspective.

So I guess we want to protect our navigation. We want to protect our

community's water resources. And by not flooding our farmers, they are part of St. Joseph just like our citizens here are, and to protect the environment where we can, but place it so far in advance of everything else that we lose what we've worked so many years to develop.

When I first came here in 1961, I hadn't paid much attention to the Missouri River. I lived on a little river called the Grand that dumps in, and I thought that was God's River, I always did until I got here and I found out, no, the Corps of Engineers built that sucker and they're responsible for it. And the more I found out about it as I've gone through issues over this last eight years as the mayor, I find it even more interesting that that truly is a man-made Corps thought process. And I think you've done an excellent job in the years that you started that in the 30s and all the way through. So just don't give up what you started. And don't throw the baby out with the bath water for special purposes of three species that everybody seems to talk about.

Other 7

And, unfortunately, I'm 64 years old and I hate to say I've never seen one of the three, so I don't know what effect it had on me. Maybe it did, I don't know, but I haven't seen it.

And so do a good job, God be with you, and I hope you come up with something before you and I both get so old that we'll be in a rocking chair at the Veteran's home that will be passed by everybody and everybody will be satisfied.

Thank you.

HEARING OFFICER: Thank you, Mayor Stobbs.

MR. MOORE: Bill Bryan.

MR. BRYAN: Good evening, my name is Bill Bryan, I'm Deputy Chief counsel to Missouri Attorney General, Jay Nixon for public protection. My address is PO Box 899, Jefferson City, Missouri, 65102.

We will file written comments at a later date, this is just some preliminary information would we like a little better opportunity as Senator's Bond's representative mentioned and we sent a letter to you as well,

1 Colonel, to have hearings at a later date to
2 have a better opportunity to review the
3 technical information so that we can make our
4 comments.
5 But tonight I want to thank you, but
6 first I want to think everyone who's here
7 because these meetings are -- this is
8 democracy in action. It's a real opportunity
9 to affect this important process and we're
10 really here to listen to you and see what you
11 all have to say, make sure we're doing the
12 right thing for Missouri.
13 The alternatives that the Court has
14 proposed arrived with uncertainty and risk,
15 Colonel. They compromise flood control in our
16 water supply for the sake of recreation along
17 way away from here. They gamble our great
18 river on the hope that their changes might
19 help endangered species.
20 In a few minutes my colleague, Tad
21 Kardis, who's also with our office, is going
22 to speak to you about how the alternatives
23 affect power shortages and how they cut the
24 public out of this important process. But
25 right now I want to talk to you little bit

FC 8
Rec 35

EnSp 4

1 about flood control and out-of-basin
2 transfers, two important issues.
3 Why do we thirst for certainty on this
4 issue? Well, Colonel, our water has ebb and
5 flow between two extremes, we either have too
6 much or not enough water in Missouri. It's
7 difficult to decide which extreme concerns us
8 more, but every Missourian in this room knows
9 the dangers proposed by flooding. And,
10 unfortunately, the alternative to the current
11 water control plan do not share every
12 Missourian's appreciation for the big rivers
13 destructive capacity. Instead of providing
14 appropriate flood protection, all of the
15 alternatives to the current water control plan
16 reduce flood control for Missourians. The
17 Corps' sudden departure from its historic
18 mission is startling.
19 We remember only a few years ago that we
20 had been -- twice in the last decade, with the
21 Corps itself, we survived two of the greatest
22 floods on records. We have not forgotten.
23 Any change that might make the risk of
24 flooding more likely or more severe would be
25 tragic.

FC 8

FC 6

In this way, in this spirit, we cannot support any new flow regimen that sacrifices flood control on the alternate walleye fishing. So I think that is exactly what these alternatives to the current water control plan do, provide higher lake levels for improved non-native fishing and jet skiing while reducing the reservoir system's capacity to store flood waters. That means more nervous nights and sandbagging for us and more walleye suppers upstream.

FC 8

But the Corps promises a spring rise only once every three years. Unfortunately, to us all that means is that when mother nature doesn't supply a spring rise, the Corps will. Instead of a good spring planting season once in while, we'll get three wet years in a row.

FC 8

On the flip side, Colonel, not enough water. Well, that also troubles us, though it is not yet as frightening to Missourians as flooding. That's because it hasn't happened yet, it's only a nightmare. If upstream interests have their way, we'll we faced with that reality sooner than anyone in this room thinks.

Years ago North and South Dakota interests pushed for a plan to divert water from the Missouri River to supply their more arid regions outside the Missouri River basin. Called the Garrison Diversion, this ecologically and economically unsound boondoggle still survives today like a bad dream that won't go away. Out-of-basin transfer Missouri River water threatens Missouri's future.

Other 172

The Dakota Water Resources Act of 2000 breathed new life into the Garrison Diversion by making the northwest area water supply project possible. No longer just an apparition Colonel, the threat posed by out-of-basin transfer is now concrete literally. That threat, that the water diverted from the Missouri River in North Dakota and transferred out of the basin never flows through Missouri. It will never be there to meet the growing needs of St. Joseph or Lexington and it will never join the mighty Mississippi River that rushed past the arch in St. Louis.

Other 9, 172

Some of us speculate that this pipe dream

will never come to fruition. Because of the great expense associated with plumbing the west, many have assumed that the Dakotas will have to rely on federal funds appropriated by Congress using Congress as a fire wall to this kind of wasteful spending.

Some of the more optimistic folks have not been too concerned by this threat. Well, what if North Dakota had $400 million to make the Garrison Diversion real? Well, here's the bad news, they do.

In the past year, the North Dakota legislature passed a statute that appropriates 45 percent of North Dakota's tobacco settlement proceeds, they expect it to be about $850 million total, to address the state's long-term water development needs including the Garrison Diversion. That means North Dakota has set aside about $382 million courtesy of big tobacco to take water out of the Missouri River.

Here in Missouri, we need to be concerned not only about flooding, the river commerce, we have to be concerned about a lot of things, the water supply is only one.

We have long been supporters of habitat restoration, and I want to take a minute on that, too, because it's very important to my boss, Attorney General Jay Nixon, and to lots of people in the State and here in this room.

Our perspective on this, Colonel, is that it's like the movie Field of Dreams, if you build it, they will come. In that movie, you may remember the fellow built a ball park in his corn field and Shoeless Joe Jackson came. Well, if you built a habitat here, our theory is that the fish and wildlife will come. If you build it, they will come. But for goodness sakes, don't build it in a corn field.

WRH 6

We need to protect our interest that the Missouri River is a reliable water supply for future generations, Colonel. The combination of out-of-basin transfer and so-called water conservation members are a one two punch that could knock out Missouri's future. We can be certain as the Corps adopts one of these proposed alternatives, harm will be done to the people in the Missouri River basin. That price is too high to pay for it's not certain

Other 9, 172

that it will purchase the hope for benefits to fish and wildlife. Hoping a change will be positive is not enough.

Great civilizations depends on great rivers and we must keep this river great. We can do that by fighting for water management strategies that make sense for Missouri and other down stream states.

Other 7

Thank you, Colonel.

HEARING OFFICER: Thank you, Mr. Bryan.

MR. MOORE: Tad Kardis.

MR. KARDIS: Good evening, my name's Tad Kardis, and I'm also with Attorney General Jay Nixon's office. Colonel, I thank you for opportunity of this hearing.

As Bill Bryan said, I will address two important issues, electric power, future participation in this process.

This process is, in part, an exchange of information. True public participation requires the information be laid out in an objective and understandable manner, as you said earlier, if you view these hearings as an opportunity to learn what information you

failed to provide us. Allow me to give you an example.

Hpower 2, 17, 18

You may have noticed how the Corps' Revised Draft Environmental Impact Statement summary expresses most of the impacts of the alternatives on key uses and resources in a language we can all understand, dollars. However, when the Corps starts talking about electric power, for some reason, it begins to speak a different language. Perhaps the reason that plain talk requires you just to come out and say that $15 billion dollars could be lost every year under the summer low flow alternatives considered by the RDEIS. How can this be? Well, 25 coal fired and nuclear power plants draw water from the Missouri River for cooling and heat dissipation. The information we're given in the summary is put in a confusing chart on Page 17, Figure 12. It's expressed in the text and the language of megawatts and megawatt hours.

For instance, the summary says that under two of the Gavins Point alternatives which provide for a summer low flow, an estimated

1 387 megawatts of capacity and 203 million
2 megawatt hours of energy would be lost.
3 What does that mean? Well, if you do the
4 math, you convert those megawatt hours into
5 the language of dollars, the answer is that
6 the loss would exceed $15 billion. This loss
7 of capacity would occur at the time of peak
8 demand in July and August.
9 High power use and declining capacity
10 have a familiar ring. Power consumers
11 throughout the Missouri River basin could
12 experience what happened in California this
13 summer, rolling blackouts, skyrocketing
14 utility rates as power companies scramble to
15 meet demand by purchasing power on the spot
16 market. That is an impact the public needs to
17 know about.
18 In comparison, the Missouri River
19 hydropower dams have one-sixth of the
20 generating capacity of the power plants that
21 rely on Missouri River water for cooling.
22 This federal hydropower does not turn on any
23 lights in Missouri. Moreover, it would take
24 the Missouri River hydropower dams 20 years to
25 generate the power lost in one month to the

MoPower 1, 3

MoPower 1, 3

1 summer low flow alternatives. Missourian's
2 would suffer a disproportionate share of this
3 loss. This process must address these
4 concerns.
5 Indeed the process itself is valuable.
6 The National Environmental Policy Act or NEPA
7 requires federal agencies to prepare an EIS
8 regarding major federal actions significantly
9 effecting the quality of the environment. The
10 Corps has accepted this responsibility by
11 preparing the Revised Draft Environmental
12 Impact Statement for potential revisions to
13 the master manual. Truly a change in the
14 management of the Missouri River is a major
15 federal action, yet the Corps seems to be
16 growing weary of this process and describes
17 its master manual revision as a journey that
18 began in 1989. However, the Corps sees a way
19 to end this journey. It's name is adaptive
20 management and it is a small dark cloud on a
21 stormy horizon, all the master manual
22 alternatives included. In fact, for some
23 reason, the Corps' publications leave the
24 distinct impression the Corps thinks it has
25 employed adaptive management already.

Other 14

One can try to define adaptive management, but it is difficult. It is impossible, however, to define with any certainty what will result from adaptive management.

With adaptive management, the Corps will be able to test hypotheses and explore changes in the operation of the Missouri River system. Indeed its language is the language of uncertainty with jargon-like flexibility, adapt, operational changes, on average and as conditions allow. In one word, vague.

Other 3

The Corps envisions future management of the river under this new scheme with an efficiency coordination team made up of primarily federal biologists. In other words, the United States Fish and Wildlife Service. Will these decisions be subject to public participation, peer review and judicial review? With all this flexibility, we wonder if any of us will ever have this opportunity to participate in this public process again.

Other 10

The 2002 master manual may be the last master manual. In the future, the Corps can simply make operational changes as new

information becomes available. They may not want to embark on this journey once more. Instead of venturing forth on a new journey, it will make river management decisions that affect us here in Missouri from behind closed doors.

Other 10

The alternative to adaptive management is this important process we are currently participating in. What does it have to offer? Only certainty, openness, fairness, accountability and predictability.

Thank you.

HEARING OFFICER: Thank you, Mr. Kardis.

MR. MOORE: Representative Shields.

MR. SHIELDS: Thank you. And for the record, you just slipped past a state senator which that's kind of a big deal to him.

Thank you. My name is Charlie Shields, I represent District 28 in the Missouri House of Representatives and I'm also speaking on behalf of Dan Heywood who represents District 5 in the Missouri House and could not be here

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ROBERTS & ASSOCIATES BY TOM ROBERTS, RPR, CCR

1 tonight.
2 It's a pleasure and I thank the Corps for
3 providing this opportunity.
4 The Corps faces a difficult balancing act
5 as you look at this problem. You're trying to
6 balance the needs of agriculture, trying to
7 balance the needs of agriculture with
8 environment and you add a third balance which
9 is that of recreation. You all do that as you
10 create a master plan for the controlled use of
11 the Missouri River.
12 Let me just touch briefly on each of
13 those three issues.
14 The first being recreation as you try to
15 reach that balance. I would argue that
16 recreation simply in that balance is a distant
17 third. It's a third because it falls far
18 short to the threat of someone's life or
19 livelihood caused by the threat of flooding
20 along the Missouri River.
21 Let me talk about environmental issues.
22 One of the things that has always concerned me
23 representing an area that is dependent on
24 Missouri agriculture and contains a large part
25 of Missouri agriculture is the perception. As

Rec 35

COVERING MISSOURI - ST. JOSEPH TO ST. LOUIS 1-800-633-8289

38

ROBERTS & ASSOCIATES BY TOM ROBERTS, RPR, CCR

1 of late, farmers are not interested in the
2 environment. And I always bristle at that
3 because to me farmers are our first
4 conservationists. And I always say, you know,
5 it's easy to be a conservationist when you
6 live in a condo in a city and your major
7 contribution to the Environmental Act is that
8 you choose to use recycled paper in your
9 computer printer. The real conservationists
10 are our farmers out there who make a daily
11 decision to forego income so they can do right
12 by their land.
13 In Missouri our farmers are not
14 insensitive to the needs of wildlife along the
15 river, but we believe there needs to be a
16 balance, and that balance needs to be based on
17 strong science. In August the Missouri
18 Department of Natural Resources sent a letter
19 to the Secretary of Interior, Gayle Carson or
20 Gill Morton, excuse me, questioning the
21 assertions of the biological opinion issues
22 offered by the United States Fish and Wildlife
23 Service. I would urge that the Corps strongly
24 look at the suggestions made in that letter
25 from Missouri Department of Natural

EnSp 12

COVERING MISSOURI - ST. JOSEPH TO ST. LOUIS 1-800-633-8289

Resources.

As the letter points out, simply the science on this issue, restoring habitat and the impact on those species is not complete.

Other 14

I would also urge that the Corps look and pay close attention to the work done in Missouri with regard to habitat restoration along the river and look at that work as an alternative to some of the proposed plans which in theory restore habitat in the lower basin, which in reality creates habitats in the upper lakes.

Other 70

The last issue I want to address concerns the needs of agriculture and the safety of our citizens. These are two basic concerns, the increased threat of flooding due to increased spring flows and the potential loss of time out of our navigation season.

With regard to increased flows in the spring, I would simply argue that the science of meteorology is not sufficient to allow the Corps to predict rainfall below Gavins Point to the degree necessary to assure the down stream residents that they will be protected from flooding. Those of us who have witnessed

FC 8

firsthand the loss of the '93 flood, the notion of a controlled flood sponsored by the federal government is a scary thing. Breaches of levees, increased ground water and potential loss of lives and property will be the results of increased spring flows combined with unanticipated heavier participation below that last dam. We are very aware and cognizant of the fact that it takes water ten days to get from Gavins Point to the Mississippi River. And once you let the water out of a dam, you can't put it back in.

FC 8
GW 7

Let me address the issue of decreased navigation season on this river. Our farmers are faced with increased competition from agriculture interests in South America. All our farmers are very aware of the fact that Brazil is expanding its transportation system both through roads and through the increased use of barge traffic along the Amazon River to transport their grains to market. I would also add and I would guess that they're doing that with very little regard and concern for the environment.

Nav 7, 12

The absolute last thing that we should be

1 considering is any model proposal that has the
2 potential to threaten barge traffic on both
3 the Missouri and Mississippi Rivers. We need
4 economically and environmentally sound ways to
5 get our agriculture imputs up the river and
6 get our grains down the river to our world
7 markets.
8 Let me conclude by reiterating this
9 point. This is a balancing act. But you
10 don't need to achieve that balance in the
11 wrong way. You need to achieve it by A,
12 basing your decision on good science and B,
13 not saving one endangered species and creating
14 another, and that other is the Missouri
15 farmer.
16 Thank you, Colonel.
17 HEARING OFFICER: Thank you
18 Representative Shields.
19 MR. MOORE: Senator David Klindt.
20 HEARING OFFICER: Senator Klindt,
21 I apologize for the sequence problem here.
22
23 (Whereupon Mr. Klindt read a prepared
24 statement, which is attached to the
25 transcript.)

Nav 30, 12

Miss 4

1 HEARING OFFICER: Thank you,
2 Senator.
3 MR. MOORE: Pat Lilly.
4 MR. LILLY: My name is Pat Lilly,
5 I'm with the St. Joseph area Chamber of
6 Commerce, 3003 Frederick here in St. Joseph.
7 By the way, welcome to St. Joseph, we
8 appreciate you being here and providing us
9 this opportunity.
10 The St. Joseph area Chamber of Commerce
11 represents a thousand plus members in the
12 community and serves as the economic
13 development agency for St. Joseph.
14 We have a concern about any plan that
15 would include a spring rise that would result
16 in adverse consequences for flood control. I
17 think it's already been discussed that those
18 of us in St. Joseph certainly have a
19 familiarity with flooding.
20 This spring rise could ultimately mean an
21 impact to farmers' crops along the rivers as
22 well as the tributaries to the river and
23 create more inland drainage problems.
24 We also are opposed, strongly opposed to
25 a reduction in summer flows that would result

FC 8

Nav 12

in a split navigation system. This would likely end navigation on the Missouri River.

Currently in St. Joseph, the St. Joseph Port Authority is constructing a new port that would serve the area and act as an economic stimulus.

Other 9

Just to give you a quick example, earlier this week I had an opportunity to meet with a local company, and this a company that makes products in St. Joseph that are distributed globally. Unfortunately, because of the downturn in the economy they have lost a supplier of an important raw material. The nature of this raw material is such that in order to obtain this raw material from another part of the country would be very expensive from a trucking standpoint. They are seriously looking at the port as a way to bring in this raw material at a price that they can afford to do business at.

So when you think of the port and when you think of navigation along the river, not only do we think of it is a job creator potentially, but also a job saver.

Nav 51

We would advocate a balanced more common

sense approach that takes into consideration species habitat restoration, but that does not put local economies in jeopardy and also jeopardize the livelihood of so many people.

Other 70

I appreciate the opportunity to provide the testimony this evening.

Thank you.

HEARING OFFICER: Thank you, Mr. Lilly.

MR. MOORE: Brad Lau.

MR. LAU: Brad Lau with the St. Joseph Regional Port Authority, 3003 Frederick Avenue.

On behalf of seven board members of the St. Joseph Regional Port Authority, I would like to voice our concerns and disapproval to the Army Corps of Engineers proposed modified conservation plan.

As the mayor said, after 12 years of hard work, the volunteer board of the St. Joseph Regional Port Authority is in process of constructing a new public port facility in St. Joseph just to the south of here. In fact, you probably saw it if you came in on South 229, that large crane there.

The proposed modified conservation plan would have a severe impact on the port authority to operate this new port in an economically sound manner. This million dollar facility offers the St. Joseph area an important economic development tool that adds an alternative and competitive transportation medium for existing and new businesses, and the receipt and shipping of raw materials and finished goods. Because river borne transportation is known to be the least cost alternative for shipping, the port, the public port in St. Joseph will give area businesses a new competitive advantage.

Other 9, 79

The new port facility is the result of a public funding partnership by the State of Missouri and the City of St. Joseph and Buchanan County. Therefore, the port authority is opposed to the Corps' proposed modified conservation plan for the following reasons: Higher reservoir levels in the upper basin lakes will lead to decreased water commitments for a lower basin state, such as Missouri, thereby negatively impacting navigation on the river.

Nav 30

The proposed spring rise could lead to flooding, which again would negatively impact navigation on the river as well as cause property damages.

FC 8

We are opposed to the reduced river flows during the summer that can split the navigation season, possibly ending navigation on the Missouri River altogether and negatively impacting the navigation on the Mississippi River.

Nav 12

Miss 4

As the economic stability of the United States and our local communities are at risk, the Army Corps of Engineers should not adopt new policies that will stifle or eliminate the many economic opportunities associated with the Missouri River. While we are not opposed to species habitat restoration, we are opposed to any measures involving changes to the Missouri River that could potentially impact the economic health of our community and other communities that rely on the economic benefits of the Missouri River be that in the form of navigation, utility production, drinking water or irrigation.

Other 15, 79

We urge the Corps to continue with the

1 water control plan now in operation.
2 Thank you.
3 HEARING OFFICER: Thank you, Mr.
4 Lau.
5 MR. MOORE: Ron Blakley.
6 MR. BLAKLEY: Good evening,
7 Colonel.
8 HEARING OFFICER: Good evening.
9 MR. BLAKLEY: My name's Ron
10 Blakley and I'm the vice chairman of the St.
11 Joe Regional Port Authority, I also serve on
12 the board as the treasurer for Buchanan County
13 Farm Bureau and I serve on the advisory board
14 for the Missouri Levy and Drainage District
15 and I'm a local farmer, I'd like to go on
16 record.
17 I would like to shift gears in regards to
18 the presentation that I have made and many
19 others have made in the past. My
20 understanding is that you have a directive
21 from Washington to review your operations in
22 regards to terrorism, as well as the president
23 has asked me and every citizen in the United
24 States to be on the lookout.
25 I want to speak to the security and the

1 safety of the river transportation system, not
2 the economic which has been mentioned before
3 and is well stated.
4 We know the terrorists have targeted food
5 and water and transportation specifically,
6 they have said that. Therefore, the Corps
7 must take this threat seriously and must take
8 it into account in the operation of not only
9 the Missouri River, but every navigable river
10 in the United States.
11 We must not be in a situation where we
12 have a negative effect upon that system for
13 the security of our country.
14 Benefits are obvious. Large amounts of
15 goods and products are moved with a small
16 number of people, therefore, giving you more
17 control over the safety and the security of
18 the products that are being moved. It's very
19 obvious that the terrorists had in mind to
20 infiltrate and possibly use the trucking --
21 trucks and the trucking system in our country
22 as a weapon against us. That is nearly
23 impossible with transportation on the river.
24 You simply have a boat captain and a few deck
25 hands. So that must be taken into account.

Other 199

1 Also, I feel like that we are in a
2 situation where we need to move to improve our
3 systems rather than maintain the status quo or
4 possibly reduce them. I, myself, am
5 convinced, and I've been around the river and
6 farmed in the bottoms in the river, I am
7 absolutely 100 percent convinced that if we
8 have the spring flow with the split navigation
9 season, it will literally -- I'm not going to
10 say eliminate, but it will hurt navigation on
11 the Missouri River and especially, without a
12 doubt, if will affect the Mississippi River
13 and the port of St. Louis when you starve them
14 for water.

Nav 12

Miss 4, 29

15 The other thing is that you must take
16 into account is hydroelectric production. We
17 have seen the system in California where they
18 have been short of electricity and that system
19 cannot be endured.

HPower 2, 18

20 The Endangered Species Act is up for a
21 review very shortly. There's going to be a
22 definite reduction in the scope and possibly
23 even be rescinded. The present situation that
24 they're in where they have a bottomless pit in
25 regards to spending, I honestly believe will

1 go away.
2 The other thing you must take into
3 account, national security takes precedent
4 over any law, irregardless of what it is.
5 Recreation and tourism has been and will
6 in the future be adversely affected by the
7 recent September 11th terrorist act. So,
8 therefore, when you are figuring your project,
9 you must reduce the dollar value added to
10 them. If you take this in account on the cost
11 benefit analysis, it must be adjusted
12 downward.

Rec 27

13 In summary, as the narrator said, needs
14 and priorities have changed. Therefore, I ask
15 you to stay with the current operation's
16 guidelines and expand your river
17 transportation operations to take away this
18 threat that our country's -- to our country's
19 food and hydroelectric supply.
20 Thank you.

Other 6

21 HEARING OFFICER: Thank you, Mr.
22 Blakley.
23 MR. MOORE: Charles Scott.
24 MR. SCOTT: I have a prepared
25 statement, but I have only one copy, so I can

give it to you afterwards. I'm Charles Scott, I'm with the U.S. Fish and Wildlife Service out of Columbia, Missouri.

(Whereupon Mr. Scott read a prepared statement, which is attached to the transcript.)

HEARING OFFICER: Thank you, Mr. Scott.

HEARING OFFICER: We've been at it for about two hours, let's take a ten-minute break and come back in here at 9:20, I'll come back at 2120.

(Off the record.)

(Back on the record.)

HEARING OFFICER: We're going to resume the hearing. I would ask Mr. Steve Kidwell to come to the podium. Is Mr. Kidwell here?

MR. KIDWELL: Good evening, my name is Steve Kidwell.

(Whereupon Mr. Kidwell read a prepared

statement, which is attached to the transcript.)

HEARING OFFICER: Thank you very much, Mr. Kidwell.

MR. MOORE: Rex Horn.

MR. HORN: Thank you, General, we're very glad to have you and rest of gentlemen here, I'm from Omaha, been here several times and we go by first name.

In fact, we support the airport out here, and we have people over there fighting tonight that if you have a spring rise, we will flood the airport, they will come and get you from over there, we won't bother you here.

FC 8

And another thing that we have had is the Missouri River flows into the Mississippi River, the Mississippi River flows into the Gulf of Mexico, and out from -- in the Gulf of Mexico, they have what they call a dead sea out there eight miles long or 75 miles long and eight miles wide and they claim it is caused by the insecticides and herbicides flowing down the river from Missouri, Ohio, all of the states up here. When we have high

Miss 31

1 water, the river runs eight miles an hour
2 instead of four miles an hour by here and we
3 feel that we are going to want to talk to the
4 environmental organization and ask them to cut
5 down on the flows so we can cut down on the
6 flow of the water and decrease, help them out
7 some on their dead sea. Now, I say that will
8 not do it all, but it will do a lot of it.
9 We have five million voters in Missouri.
10 Now, last year before the election, I stood up
11 down there on one of the Army trips that told
12 them that two million people in Missouri would
13 be benefitted by better control of the river,
14 and we had some of our U.S. Senators develop
15 the -- to pass a law in the U.S. Congress to
16 decrease the spring flow and President Clinton
17 vetoed it.
18 Now, you'll see what has gone on here
19 this evening and we most certainly are not in
20 favor of spring flow. Anything you could help
21 us -- I know that you have a difficult
22 position and with what you had to work -- the
23 privileges you've had to work with. All of
24 you and your associates here have good power,
25 but we sure would appreciate cheaper power

Nav 79

MoPower 1

Hpower 2, 18

1 from -- in Missouri come off the river here
2 instead of shipping it over to Washington
3 state.
4 Thank you.
5 HEARING OFFICER: Thank you, Mr.
6 Horn.
7 MR. MOORE: Brooks Hurst.
8 MR. HURST: Thank you, Colonel,
9 and I would like to thank the Corps for coming
10 here and allowing us to give this testimony.
11 My name is Brooks Hurst and I live in
12 Tarkio, Missouri, a soybean and corn farmer
13 from Tarkio. I farm roughly 3,700 acres with
14 my two brothers and my father.
15 Tonight I'm representing Missouri Soybean
16 Association and the Coalition to Protect the
17 Missouri River. I'm president of the Missouri
18 Association, a membership organization of
19 nearly 1,500 soybean farmers from across the
20 state. I farm along the Tarkio River, a
21 tributary of the Missouri River and it's about
22 30 miles along the Tarkio to get to the
23 Missouri and flooding is a problem for my
24 operation.
25 The proposed spring rise would make

1 potential flooding more severe. Anytime the
2 Missouri River floods, the Tarkio River
3 floods. When the Missouri River rises not
4 even to the flood stage, the Tarkio River
5 floods. With approximately 1,200 bottomland
6 acres, I cannot afford to have flooding on my
7 land especially unnecessary flooding like the
8 Corps of Engineers is recommending.
9 The Corps plans to use sound data and
10 research. They do not have all of the facts.
11 Economic studies do not consider the secondary
12 tributary flooding such as the Tarkio River.
13 This increased flooding on the Missouri River
14 and its tributaries results in the depletion
15 of some of our most productive agriculture
16 lands, not to mention the increased spring
17 flow will result in the flooding of our homes
18 and communities endangering both our
19 livelihood and our safety.
20 Missouri agriculture already experienced
21 nature at it worst with the floods of 1993 and
22 '95. Why do we need to put our agricultural
23 bounty in danger again? It's impossible for
24 us to support any alternatives that proposes a
25 3.3 to 4.4 spring flood, spring rise and

FC4

FC6

1 suggests further risk to our crops.
2 Beside the flooding the proposed spring
3 rise summer flow would have a negative impact
4 on navigation. A spring rise because of
5 summer flow, would substantially hinder barge
6 traffic on the Missouri River. In 2000 we
7 exported over $405 million in soybeans and
8 soybean products. Therefore, benefitting
9 producers and overall Missouri economy and now
10 the Corps is threatening this valuable
11 economic resource.
12 As a representative of Missouri's over
13 24,000 soybean farmers, we do not support the
14 spring rise summer flow. We are forced to
15 support the current water control plan as the
16 only viable alternative proposed.
17 The potential consequences of increased
18 flooding are prevalent and disastrous. The
19 so-called controlled flooding is an
20 unthinkable option that threatens thousands of
21 acres in Missouri. It would allow the river
22 to flood areas that are key to agriculture
23 production. Perhaps before any changes are
24 made to the flow of the Missouri River, the
25 Corps should look at the total ramifications

Nav 12

Other 6,48

of this poor river management. Not only does it affect all farmers along the Missouri River and its tributaries, but it also affects our community and our economy as a whole.

Thank you once again for allowing me to testify and I appreciate your being here tonight.

HEARING OFFICER: Thank you, Mr. Hurst.

MR. MOORE: Bill Lay.

MR. LAY: Thank you, Colonel, for the opportunity to make a presentation. My name is Bill Lay, I live at 402 Highway 5 and 240, Fayette, Missouri. I am representing myself. I have lands in the Missouri River bottom and I am a member of the Missouri Levy and Drainage District Association.

I have been interested in the low -- the complaints regarding the low summer flows. Basically, the people have said we don't like the low summer flows because they will interfere with navigation. Now, my basic concern is flooding. And I am addressing my remarks generally towards flooding. I don't like the low summer flows because of

flooding.

Number one, if -- the Missouri River is a delicately -- I mean, the Missouri River system is a delicately balanced system which get a certain amount of water in each year and discharges it. The folks in Omaha look at the amount of water that they're going to have for the year and they set a base flow. Each year the base flow depends on the amount of water.

Now, if you're holding up the discharges two and a half or three months a year, you're -- say you're holding up 10, 15,000, CSF during that period, you're going to have to get rid of that water someplace else. You might get rid of the water in the spring when you're adding 10 or 15 -- 15 or 20,000 or CSF on the deal so you might have another 3 or 4,000 to add to that by virtue of the summer flow. Or you may put it all in the September through December so that you can get it out of the -- get it out and get down to the base of the pool.

FC 17

In either case, you're going to have -- you're probably not going to have much flooding during the summertime when you got

1 your low flows, but you could be pushing it up
2 over during the other times. And you can't do
3 anything between December and March because
4 it's too cold, ice. Larry's just not going to
5 let a lot of water out during that period of
6 time. And so this is -- I mean, the summer
7 drops. Sure, they will hurt navigation, but
8 they're going to hurt me farming and hurt on
9 flood control.
10 You know, higher water might go over my
11 levy, it will probably go over my drain, and
12 if it goes over my drain, that may back it up
13 in the fields. The problem is, when they are
14 deciding they're going to give us more water
15 is when we're getting ready to plant crops and
16 it's hard to plants crops in the mud. You
17 know, that's the problem, and we'll take the
18 water out during the summertime when we need
19 water for the crops. Dry them up because of
20 the thing.
21 So it's inconsistent. The plan is
22 inconsistent with agriculture certainly, and I
23 want you -- I wanted you to have that.
24 Now, in Omaha 10,000 CSF amounts to about
25 two feet of water in the channel or in the

FC 8

1 flooding situation. Down in Boonville, it's
2 not as important admittedly, but it's 10,000
3 will amount to about a foot. Now, a foot of
4 water can amount to -- may not amount to much
5 when we're down low on the levy, but when it
6 gets close to the top of levy, a foot can be
7 sort of bad for us. This is -- I know we're
8 down in Boonville where it's not going to
9 be -- we're not in too bad shape, but we could
10 get in bad shape. We want you to take care of
11 us if you can.
12 Somebody talked about the fact that we
13 can in the spring, figure out whether we're
14 going it have a high flood year or a low flood
15 year, a high inflow or low inflow. Now, I
16 don't think -- I've discussed with fellows in
17 Omaha and they are really not too anxious to
18 tell me whether we're going to have a low
19 flood year or a high flood year in the March
20 or April meetings, they're rather cagey about
21 whether it's going to be high or low.
22 Now, you remember -- I'm remember in
23 1993, I came up to a meeting and it was dry
24 and they knew they weren't going to have any
25 water, and Dwayne just assured us that he

FC 6

ROBERTS & ASSOCIATES BY TOM ROBERTS, RPR, CCR

1 wasn't going to have -- we were going to be in
2 trouble that year and we were in trouble until
3 July. And after July, we had no trouble with
4 water. Dwayne was able to fill up his
5 reservoirs.
6 I think if you're telling somebody that
7 you can tell in March or April when you start
8 that flow out what's going to happen for the
9 year, I don't think it's very easy to do,
10 that's what I'm complaining about.

FC 8

11 We have talked about the pallid sturgeon
12 and how we're having trouble keeping them
13 around. Now, we have suggested that possibly
14 game fish might eat little pallids. Now, I've
15 been assured by your fellows, your biologists,
16 they cut up a lot of those game fish and
17 haven't found any pallid sturgeons in their
18 stomach, but I -- I'm not real sure whether
19 this other stuff we're talking about that's
20 going to be so expensive for us, if we're
21 really worried about the pallid sturgeon, we
22 ought to look into what game fish might do.

Fish 14, 21

23 I've suggested they get one of these form
24 deals, water patrols, put in some pallid
25 sturgeons and some game fish to see what

ROBERTS & ASSOCIATES BY TOM ROBERTS, RPR, CCR

1 happens. They say that's not a valid
2 experiment. But, you know, that's one of the
3 things we're talking about.
4 Now we're talking about adaptive
5 management which is suppose to be good. Now,
6 possibly the best thing you're doing with
7 adaptive management, you're not letting
8 farmers get into the board to mess up what the
9 decisions are, you're doing it with government
10 people. And maybe that's fine, but of course,
11 we all would like to be there to help them
12 with the adaptive management, that's part of
13 it.

Other 10

14 I assume when we're talking about
15 adaptive management we're talking about either
16 a 15,000 CFS flow or a 20,000 CFS flow, those
17 being the high and the low on the adaptive
18 management situation. Do you have a parameter
19 in there so that they can't just put it as
20 high as they want to or drop it as low as they
21 want to. And on the lower, you're talking
22 about twenty-eight five or 21,000 CFS. Are we
23 running the parameters on this adaptive
24 management? I've heard adaptive management is
25 a wonderful thing, but I haven't heard

Other 3

anything about parameters, and I certainly hope we have some parameters on the thing. Of course, I'm not really interested in adaptive management, but if you do have it, that's -- you've got to have some parameters.

Let's look at I-70 which runs between St. Louis and Kansas City. Now, we know that that highway is in awful shape. We don't have money to replace it. They are talking about tremendous destruction plan for that highway, but they don't have funds in the Highway Department to replace it. Now, if we take out navigation on the Missouri River so that we're not running between St. Louis and Kansas City, that means you're going to have to have more big trucks on the highway, and big trucks on the highway taking these heavy loads is going to put our highway in trouble.

Nav 23

I'll close, I'm sorry. Thank you.

HEARING OFFICER: Mr. Lay, I appreciate your comments, and you were so intriguing I gave you a huge break on the time. I didn't have the heart to stop you.

MR. MOORE: Bill Griffith.

MR. GRIFFITH: Good evening,

Colonel, my name is Bill Griffith, I'm a resident of Leavenworth, Kansas, I'm a native of Kansas.

I moved to Leavenworth about eight years ago and began to learn a lot more about the Missouri River at that time. I saw the end of the 1993 flood and have followed closely the master manual process.

As a father of three, I've cherished the few recreational opportunities we're afforded on the lower river such as excursion out to a rare sand bar and taking a hike up at the natural hardwoods up at Fort Leavenworth.

As a history buff, I'm enthralled by the voyage of discovery as one of the earlier speakers had mentioned and other colorful tales of life along the Missouri and look forward to the excitement of the upcoming bicentennial of the Lewis and Clark expedition as do many others.

As chairman of the Sierra Club's national river committee, I thrill to potential biological diversity the Missouri will give us if we make sound management decisions and change the decades old manual designed for a

1 far different time.
2 That potential is shackled as of now has
3 led to great peril for the pallid sturgeon,
4 the least tern and the piping plover. Many
5 other fish and wildlife have seen their
6 numbers plummet as well, and the downward
7 spiral will continue if we persist along the
8 same path. I often wonder how this reflects
9 on us as care takers of the Missouri River,
10 all of us, let alone of our Earth in general.
11 Will our hubris continue by ignoring science
12 and plowing ahead with business as usual.
13 The Sierra Club supports the
14 recommendations of the Fish and Wildlife
15 Service for a spring rise and lower summer
16 flows on the Missouri River. Their
17 recommendations are based on the best
18 available science we have. To buttress that
19 statement, I'm comforted to see the Missouri
20 River's Natural Resource Committee members
21 from Montana, Kansas, Iowa, Nebraska, South
22 Dakota and North Dakota and Missouri has
23 stated publicly that the U.S. Fish and
24 Wildlife biological opinion is biological
25 sound and scientifically justified.

EnSp 7

Other A, 70

1 I also read in yesterday's Kansas City
2 paper, I believe, David DeLot (phonetic), a
3 University of Missouri river ecologist, he was
4 quoted there as saying the idea of just having
5 flood plain restoration and not altering flows
6 is a very naive point of view from an
7 ecological perspective.
8 He also mentioned that there had been
9 about 130 scientific studies detailing the
10 negative impacts that can occur to fish and
11 wildlife when the river's natural flow is
12 altered. The good news he mentions is about
13 30 studies have shown how restoring the flow
14 and habitat can assist in the healing of
15 damaged rivers which also benefits humans
16 greatly.
17 The adaptive flows -- or excuse me, the
18 flexible flows in conjunction with adaptive
19 management practices offer the best, and in
20 all probability the only chance for pallid
21 sturgeon, least tern the piping plover and
22 other in peril species to exist with us along
23 the Missouri River.
24 The spring rise will be a conservative
25 rise in some folks' view, and as the Corps'

EnSp 7

Other 7

own documents states, it will not affect any new land, will be done on an average only once every three years, will not be done when there's already higher water flows and will not be the cause of catastrophic floods on the lower river. And I do believe I bring some sensitivity to this matter as my family does own some river bottomland.

The spring rise should help other fish species rebound as well. The State of Missouri used to have a thriving commercial fishery and is now down to one part-time commercial fisherman.

The increase in these species will be a boon for anglers, the boating industry, canoeists, hunters and other recreational enthusiasts. This will pump a substantial sum of money into the basin assisting local economies and garnering sustainable growth.

Rec 10

I find it interesting that although recreation is emphasized by the Corps and navigation is, recreation brings in much more money. And I'd like to think about the economic boost it will do if we emphasize recreation some more.

Nav 9, 42, 43, 45
Rec 10,

The lower summer flows would have the added benefits of assisting recreation as well as more folks get out on the river on the newly created sand bars. This will bring boaters, canoeists and campers down to the river instead of avoiding it as they do now. And I, for one, look forward to the day I can take my children out on a canoe on the Missouri River and not feel they're in danger. Stopping to explore a stand bar or finding a camp site to pitch a tent on is something I would cherish as a memory, I think would last me a lifetime.

Rec 10, 24

I am heartened to see that the flexible flow alternatives will assist the Mississippi River navigation especially 2021. The Mississippi River navigation, of course, is where the vast bulk of barge transportation occurs, and it will be an improvement about 16 percent.

Miss 27

I also noted it increases hydropower benefits by 2 percent overall and does support Missouri River barge navigation in the critical spring and fall periods.

HPower 2,18

And for the record, I'd like to state the

Sierra Club is not opposed to the Missouri River barge navigation.

Nav 79

Given the benefits to fish and wildlife, the recreation industry and the increase in tourism that will follow the hydropower benefits and the benefits to Mississippi River navigation and the high level flood protection this brings, this brings added clarity to using a flexible flow alternative as the best ones for the Corps to implement.

Other 7

Thank you.

HEARING OFFICER: Thank you, Mr. Griffith.

MR. MOORE: Mr. Bailey.

MR. BAILEY: Good evening, my name is B.J. Bailey, I'm a producer in Orrick, Missouri. I farm in the Missouri River bottoms. I'm here tonight representing the Missouri Corn Growers Association and I'm on the Board of Directors.

The Missouri Corn Growers Association is a grass root organization representing corn growers across Missouri. The Missouri Corn Growers Association will support the current water control plan because it is the only

Other 6

feasible alternative presented by the Corps of Engineers. All other alternatives that are being presented would be absolutely devastating to agriculture.

We're opposed to higher reservoir levels in the upper basin lakes. Increased reservoir levels reduce water available for flood control available to the lower basin.

FC 13

Managing the Missouri River flow based on these needs upstream, recreational and other interests, goes against the original intent of Congress to manage the river for multiple interests including flood control and navigation.

We are also adamantly opposed to the reference so-called spring rise. First increasing water releases with a flood or decreased drainage on thousands of acres in the Missouri River bottoms.

FC 8

The Corps and the Fish and Wildlife Service claim that they can curtail water releases from Gavins Point if downstream flooding occurs. However, it takes over eight to eleven days for that water to travel from Gavins Point to the mouth of the Missouri in

St. Louis. Once water is released in Gavins Point, it cannot be recalled.

Weather cannot accurately be forecasted ten days in advance, therefore, this proposed controlled flood could be devastating not only for potential massive flooding, but also delayed planting due to internal drainage problems.

In my last 20 years of farming, we've had two major floods in '84 and '93 and several other minor floods through the years. If three or four feet of water is added to the river in the spring, it could be devastating to Missouri River basin farmers.

It is also proposed that these increased spring flows would be offset in the last summer by a split navigation season. During July through September, water releases would fall below levels needed to maintain navigation. This would end navigation in Missouri.

As you know, barges are a low cost transportation alternative for agriculture commodities and inputs. As important, barge transportation places competitive pressure on

Nav 12

regional rail rates. Railroads can only raise rates to the point where they can start to push traffic on to alternative modes of transportation. For example, barges.

It has been demonstrated numerous times in areas throughout the country that do not have access to barge transportation, rail rates are higher. And their analysts, the Corps estimates that barge competition reduces rail rates in the Missouri basin up to $200 million annually. The importance of barge competition is further heightened as the rail industry continues to consolidate.

The Missouri Rivers is also a major source of water for the Mississippi River. During the drought of 1988, the Missouri River discharge accounted for 63 percent of the water flowing past St. Louis from July through October.

The planned flow reductions by the Corps will coincide with other summer drought, navigation on the upper Mississippi would be interrupted costing the nation's farmers and industries millions of dollars a day.

We also have concerns about what the

Miss 4

1 Corps calls adaptive management. Through this
2 proposed adaptive management, the Corps would
3 be given considerable power to make flow
4 release adjustments. These adjustments would
5 be made primarily through considerations of
6 one interest, the endangered species. If it
7 is determined by the government agencies that
8 for the sake of these species it is needed,
9 the high spring rise, the low summer flows
10 could be implemented. We cannot assume that
11 any other alternative would be proposed and
12 accepted by the Fish and Wildlife Service.
13 They have single-mindedly always proposed
14 a spring rise, split navigation season as the
15 only alternative that would benefit the
16 species. They have not proposed any other
17 reasonable or prudent alternatives. Missouri
18 Corn Growers Association is concerned that
19 adaptive management will result in the loss of
20 public ability to be involved in decisions
21 involving flow management to the Missouri
22 River. It does not follow the law which was
23 provided by the National Environmental
24 Protection Act which allows for public input.
25 The adaptive management the Corps assumes

Other 3, 10

Other 3, 10

1 power not given to them by Congress. Congress
2 did not intend for the Corps to assume the
3 power to implement any changes they feel are
4 necessary or want to try as an experiment.
5 In summary, a spring rise is unwarranted
6 and unscientific, it threatens farms and towns
7 and increases risk of flooding and financial
8 losses through reduced internal drainage. The
9 reduced summer flows would end navigation on
10 the Missouri, threaten barge traffic on the
11 Mississippi. There are other nonflow
12 alternatives. Missouri corn growers will
13 support nonflow species habitat restruction
14 alternatives as the method of addressing
15 species concerns.
16 Missouri corn growers supports the
17 current water flow control plan. We recommend
18 that the Corps keep the water plan now in
19 operation.
20 Thank you very much.
21
22 HEARING OFFICER: Thank you, Mr.
23 Bailey.
24 MR. MOORE: Tom Waters.
25

Other 3, 10

Other 8

(Whereupon Mr. Waters read a prepared statement, which is attached to the transcript.)

HEARING OFFICER: Thank you, Mr. Waters.

MR. MOORE: Randy Asbury.

(Whereupon Mr. Asbury read a prepared statement, which is attached to the transcript.)

HEARING OFFICER: We appreciate your to bringing this testimony tonight, sir. Thank you, Mr. Asbury.

MR. MOORE: Jerry Johnson.

MR. JOHNSON: I'm Jerry Johnson, Troy, Kansas, I speak as an individual.

My family and I make our home north of Troy, Kansas on the Missouri River where we have lived for 22 years. Part of our family operation includes 400 acres of tillable land in the flood plain.

I was here this afternoon reviewing the information and visiting with several of the

people and have come to realize this is a very complex issue with many people wanting different plans. I support staying with the current water control plan.

Because of the limited time I have. I will speak of concerns that affects me and my family operation most directly which is interior drainage and ground water.

IntID 8
GW 7

Our success depends greatly on river level at critical times of the year. Flood stage in St. Joseph is 17 feet. Any river stage above 17 feet measured at St. Joseph starts to create ground water problems on our bottom land. Stages at 19 feet close our flap gates and any local rain becomes ponds which cannot drain until the level falls once again below 17 feet.

Our tract varies in elevation only approximately two to three feet over the entire 400 acres so you can understand that a river level increase of merely three to four feet, which may not sound like a lot, can make it very difficult and, in some years, impossible to plant a crop in a timely manner.

Like other farmers on the river we have learned to deal with mother nature and occasional floods. The idea of a plan three to four foot spring rise for a four-week duration as the GP options call for would not be in my best personal interest or in the interest of local businesses.

FC 8

It seems to me that a common sense solution would be to seek out landowners willing to sell or lease their land to develop habitat for wildlife and enhance recreation and to continue to manage the dams and reservoirs for their intended purposes under the current water control plan.

Other 70, 129

I'm encouraged by comments of our local leaders and representatives of Kansas and Missouri and hope they will continue to work on behalf of people like myself.

And I thank you for the opportunity to voice my opinion.

HEARING OFFICER: Thank you for your comments, Mr. Johnson.

MR. MOORE: Robert Crouch.

(Whereupon Mr. Crouch read a prepared statement, which is attached to the transcript.)

HEARING OFFICER: Thank you, Mr. Crouch.

MR. MOORE: Carl Hugh Jones.

MR. JONES: I'm Carl Hugh Jones from Lincoln, Nebraska, I'm here representing myself.

I'm sort of known as a river historian, and since we have been talking quit a little bit about the natural river and the spring rise, I thought I would look at some of that from a really historic standpoint.

Navigation on the Missouri River started essentially in 1819, and by the 1830s, '40s, it had gotten to the point where it was very important to the westward expansion.

When the boats got ready to come up the river, they only looked for one thing, no ice in the river and enough water to get there. This could happen anywhere from sometime in February or to late March depending on the

1 amount of snow melt and when things warmed
2 up. So there was actually a early spring rise
3 created by the snow melt on the plains. This
4 was followed by the June rise which is created
5 by the snow melt in the mountains.
6 If you're going to Fort Benton -- well,
7 from -- you know, they got there about the
8 1850s, but the -- 1832 was the first time they
9 got to the mouth of the Yellowstone, but that
10 was with the boat, the Yellowstone, and a six
11 foot draft. She didn't make it in '31, there
12 wasn't water enough to get her above Fort Peer
13 (phonetic). So it was that kind of a thing.
14 So I guess I'm saying is that there was
15 two raises in the river, the long one coming
16 down from the mountains head across to the
17 plains and its traveling there probably gave
18 it a chance to warm up so it wasn't ice
19 water. If you've ever stepped in the river
20 flowing from glaciers, you know what ice water
21 is. So that coupled with local rains would
22 give the pallid sturgeon that 60, 65 degrees
23 that they need to, as a cue, to spawn or --
24 you know, for the eggs to actually hatch.
25 So I'm looking at this and saying if it's

EnSp 17

1 warm water that does the trick, maybe that's
2 all we need. Instead of a spring rise, just
3 open the flood gates at Gavins Point, let it
4 come over the spillway for the 21 days, then
5 try to raise that water temperature up. We
6 don't know just what time of year these guys
7 decide to spawn. We have some idea of the
8 water temperature.
9 Now, when did improvement on the Missouri
10 River start? 1832 they started snagging, and
11 I wanted to make one little comment about the
12 creation of the six foot channel, the
13 legislation for it and for the later
14 developments.
15 Starting in the 1880s, there were
16 railroads paralleling the Missouri River from
17 St. Louis to Kansas City and those railroads
18 said if we can get through of the steamboats
19 while keeping the rates low, they'll
20 disappear. And they did disappear pretty
21 much. And then the shippers said these
22 railroads are gouging us and they went out and
23 created a situation where they could -- they
24 tried to bring back barges or steamboats.
25 They built three big ones there in the 1880s.

EnSp 17, 60

81

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They lasted a year or two. The railroads cut the rates and the boats went to other parts of the river system because they just couldn't make it out on the Missouri. They disappeared, the rates went back up, Kansas City went through this thing again a couple of more times until you get the 1904 legislation that created the six foot channel. So it was an up and down thing that happened. And I assume because the railroads are railroads, they want them to get as much profit as they can and pay as much dividends as they can. It's a situation that would recur if we remove barge traffic from the Missouri River.

Nav 6, 8

Back that up, you have to look at what the railroads are charging people in North Dakota compared to what they're paying down here in the Missouri and Nebraska and Kansas.

Thank you.

HEARING OFFICER: Thank you, Mr. Jones.

MR. MOORE: Captain Bill Beacom.

MR. BEACOM: I'm a navigator, been navigating by St. Joe here for the last

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82

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45 years and the one thing that strikes me about all of these meetings is there is so much information that it's impossible for anybody to absorb even a portion of it. There's so much, in fact, that the Corps breaks it up into different areas and assigns each person to an area so that they can clarify it to the questioner.

The one thing that we have to do when we're involved in a situation like this is to make sure that we have clear convincing evidence that we can trust and be able to weed out disinformation and misinformation.

Now, I was kind of at a loss as to what to use for an example of disinformation and misinformation, but thankfully, I looked at the American rivers table and got a good example and I will quote from one of the pamphlets that they're putting out tonight to show you what that example is.

Fact. As they present it, overall impacts to flood control benefits resulting from any of the alternatives are considered insignificant. Now, this is a quote from the RDEIS booklet. But the fact is if you ask

FC 4

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anybody that wears those overalls and it's their lands that's getting flooded, it's not insignificant.

Fact. Both ground water and interior drainage impacts would largely be experienced on lands that are already affected by current conditions. Whoopee. That means that the land that gets flooded when you get high water now will get flooded when you get high water then. So, you know, that's kind of a dumb thing. The only difference is that under the current -- the plans that are proposed it's going to get flooded oftener in the spring and in the fall, not just when it rains.

FC 8
IntD 8
GW 7

Fact. The flexible flow alternative and all other flow adjustments that are outlined in the RDEIS summary would still require the Army Corps to maintain at least full navigation flows in the springs and then back the flow navigation flows by September 1st. The fact is that you've taken 30 percent of the productive time out of the Missouri River. How many people in this room would like to give up 30 percent of their income if they were running a business or 30 percent of

Nav 12

their wages if they were employed in a business and could they manage to survive if they did.

Fact. According to the RDEIS summary, the flexible flow alternative actually generates 2 percent more hydropower benefits each year than the dam -- current dam operations. Now, I think if you were paying attention, even though it's very difficult to absorb it all, the Corps put on the bulletin board just tonight that there would be a $30 million increase in utility payments by people in the basin. Yes, we have storage to get 2 percent more, but it doesn't come at the right time.

HPower 2, 18

Fact. The MNRC supports the recommendations contained in the U. S. Fish and Wildlife Service. Why certainly they do. It's a good old boy network, and the purpose of this whole endeavor is to take the control of the Missouri River away from the Corps of Engineers and put it into the hands of Fish and Wildlife. That's what this is all about. We could solve the problems with the pallid sturgeon or the birds, but nobody wants to

EnSp 25

because it's not to their advantage especially if they're a fishery's biologist.

Fact. Spring and summer flows. Elements of the historical hydrograph mimic by the recommended flow changes included higher flows through mid-June and lower flows from mid-July through August. But they don't mention that they have to get rid of the water that's left over from this and they're going to have to flood these bottom lands again in the fall, and there's no natural hydrograph that shows any time that we have had regular floods in the fall.

FC 17

Now, the Missouri River National Resource Committee has said that they back up the original biological opinion by U. S. Fish and Wildlife, and it's even said that six peers have signed on to this opinion. Their signing on was nothing but answering three questions on a piece of paper, and there were generic questions like does water run downhill? Not quite that generic, but nearly. And they didn't even know that these letters were going to be used. Sure they said that changing the flows might change the habitat, but very few

EnSp 25

real scientists are on board with this biological opinion.

We have to learn to evaluate the information that's out there, consider the course source of the information and then decide whether it makes common sense.

HEARING OFFICER: Thank you, Captain Beacom.

MR. MOORE: Don Jorgensen.

MR. JORGENSEN: Good morning, Colonel.

HEARING OFFICER: Not quite, just feels like it.

MR. JORGENSEN: I'm Don Jorgensen, I'm a stake holder from Jefferson, South Dakota, and I would like to talk a little bit about some of the common assumptions that are found in the RDEIS and some of the alternatives and including the final buyout opinion.

The piping plover are listed as threatened, but there's a book out there, "The Birds of North America," written by the Audubon Society in 1917 and they list the piping plover as rare. So why are we saying

EnSp 28

now that the operation of the Missouri River is necessarily threatening the piping plover.

The least tern are termed endangered. Again, the Audubon Society in 1917 states the population was severely reduced by 1917 because excessive hunting on the east coast. So once again, why is the Missouri River management being held up as the villain and the cause of this reduction in population.

EnSp 28

Pallid sturgeon are listed as endangered, but the question is do you have any real data to show that?

EnSp 28

Sir, I would like to go back, I'm sorry, because I haven't written these out, I've just got notes.

In reference to the piping plover not only in 1917 Pearson said they were rare, the only data that are shown in the final biological opinion shows that the population is increasing. The only quantitative data we have, yet we still say the operation of the Missouri River is being endangered. I do not know if it is or isn't, but one thing I know for sure is there's not enough data to show that it is.

EnSp 27

Least tern's only quantitative data showed that the population is stable. That's the only data there is. And once again, it is not proof that the management of the Missouri River has caused this damage.

EnSp 28

In reference to the pallid sturgeon, there are no background data so we have very little to compare to. But there's no doubt that there's been huge changes on the Missouri, there have been habitat changes. Everybody wants the betterment of these three species and other species, that's not the question.

EnSp 28

So what do we do about it? Well, obviously, the one cure that comes up again and again is the spring flow, spring rise and the summer low flow. And it's been listed so many times they have many, many negative environmental and economic impacts.

The assumption is the spring rise will cue the sturgeon to spawn. Well, as shown tonight by your own slides, the 21-day spring cue occurs about 30 percent of the time now in the lower river and there's no evidence that there are more pallid sturgeon. Something's

EnSp 29

ROBERTS & ASSOCIATES BY TOM ROBERTS, RPR, CCR

1 wrong, but we don't know what it is, but it
2 isn't the spring rise.
3 There was a study done by Purg (phonetic)
4 in 1981. He studied the upper Missouri River
5 and the Marias. This was a very revealing
6 study. This study shows that spawning on the
7 Marias River, a major tributary, occurs after
8 the spring rise. But it does occur at 65
9 degree Fahrenheit which is apparently the
10 major temperature control and cue to
11 spawning. It does not show that the spring
12 rise is the cue to spawning.
13 A study by a gentleman named Lewis in
14 1978 that dealt with spawning of the
15 shovelnose sturgeon below Gavins Point dam and
16 Vermillion, South Dakota. That study resulted
17 in -- he showed that the data from that study
18 show that there is spawning of the pallid
19 sturgeon in the Missouri, but there's not
20 recruitment. In addition, this spawning was
21 occurring below Gavins Point Dam with no
22 spring flow. The point being, why are we
23 asking for a spring flow that already the data
24 show is not going to do the job. Why are we
25 even getting into this area, I'm not certain.

EnSp 17

EnSp 28, 17

ROBERTS & ASSOCIATES BY TOM ROBERTS, RPR, CCR

1 Why is there no recruitment of the pallid
2 sturgeon? Well, one of the reasons is there's
3 not adequate substrata. Virtually everyone
4 who has studied the pallid and the shovelnose
5 knows that we have to have gravel and cobble
6 for the substrate for the spawning to occur.
7 Basically, below Fort Peck the Missouri
8 contains very little sand and gravel. And
9 below Gavins Point, there's only sand and
10 gravel for about the first four miles, and
11 this is an area where there's intense
12 competition from predator fish that have been
13 introduced in the reservoir system above.
14 Recently as part of the Corps studies,
15 there was a study done on the fish and the
16 physical habitat, and Gallat and others
17 (phonetic) are the author. And this data from
18 this shows that basically there is no gravel
19 between the mouth of the Missouri River to
20 Fort Peck. So this obviously is one of the
21 reasons.
22 One of the things you conclude from that
23 is possibly that the sturgeons have not been
24 successfully spawning in the Missouri River
25 for a long time, possibly thousands of years.

EnSp 58

EnSp 28, 17

1 The major success has probably been incurred
2 by spawning in the tributaries.
3 There are other things that are causing
4 this, and these things were basically ignored
5 in the final biological opinion. Support
6 fishing for the shovelnose sturgeon.
7 HEARING OFFICER: Mr. Jogensen,
8 I'm sorry, I have to call your attention to
9 the time limit, but if you can wrap up in a
10 couple of sentences for me, please.
11 MR. JORGENSEN: Sure.
12 Conclusion, the spring rise is not required by
13 the sturgeon, the spring rise will flood the
14 tern and plover, habitat increase is needed.
15 Finally, changes are desirable, but the spring
16 rise and summer low flow are unsound both in
17 environment and in economic sense.
18 HEARING OFFICER: Thank you, Mr.
19 Jorgensen.
20 MR. JORGENSEN: You're welcome.
21 MR. MOORE: Eileen McManus.
22 MS. MCMANUS: Hi, my name's
23 Eileen McManus and I live and usually sleep at
24 8200 Walnut, Kansas City, Missouri 64114.
25 I'm a member of the Sierra Club and I

EnSp 5, 2, 53

1 chair the local Kansas City, Missouri
2 Conservation Committee.
3 I read the summary of the Missouri River
4 RDEIS that came out in August and I would
5 recommend it to our senators and
6 representative and anyone else who hasn't had
7 the chance to read it because we all need to
8 be on the same page and not inflate our own
9 personal or political agendas with rhetoric
10 and/or misleading statements.
11 I was impressed by many of the things in
12 the summary and the first being the letter
13 from Carl Strock, (phonetic) Brigadier
14 General, U.S. Army Division Engineer. He
15 stated that this summary represents many years
16 of effort by the Corps of Engineers,
17 scientists, technical staff and technical
18 experts of all levels of government. That
19 sounds like an impressive group of people to
20 me.
21 In the next sentence he says most
22 importantly, the document incorporates the
23 concerns expressed by watchful basin citizens
24 who have participated throughout this lengthy
25 process.

I want to thank the Corps for taking the time to have these public hearings and valuing our input enough to consider in conjunction with all the professional and technical expertise that they already have.

Another thing Carl Strock stated was that the Missouri River is a national treasure that must be protected. And the dams are national investments that should serve the contemporary needs of the Missouri River basin and the nation. I like that he picked the word contemporary, because it emphasizes the present needs and not just what the river has been managed for in the past.

He points out that two shortcomings of the current water control plan that needs to be addressed are how it affects drought conditions and the Endangered Species Act.

Several pages in the summary are devoted to features of six alternatives and impacts of these alternatives on the uses of the river.

And on Page 28, there is the table that compares how the alternatives negatively or positively compare to the current water control plan.

I support the flexible flow plan or GP 2021 because these flow changes are recommended by the U. S. Fish and Wildlife Service to avoid jeopardizing the continued existence of the pallid sturgeon, interior least tern and piping plover.

EnSp 8

If you look at the chart, it provides the most positive effect for wildlife habitat. It also provides the most negative effects for navigation. This isn't surprising since the very thing that these species need, which is fluctuating water levels for spawning cues, shallow water in sand bars for nesting birds is exactly what channelization of the river between 1930 and 1950 got rid of.

WRH 8

EnSp 17

But again, what are the contemporary uses of the river? What is most important now? When the river was channelized, the barge industry was forecasted to carry 20 million tons of cargo annually. Today it carries less than 1.5 million tons. It's only doing 8 percent of the business that the river was originally channelized for.

Nav 34, 18

Although navigation is one use of the river, it literally doesn't carry the weight

to jeopardizing endangered species.

I realize that there needs to be to a compromise or balance on all the uses and interests, but the flexible flow alternative would only be implemented once every three years. And with the feature of adaptive management, operational changes would only occur during the right climatic conditions.

Other 7, 13

Such scientific management means spring flows wouldn't increase during possible flooding. And it will be the Corps who has the expertise and the experience who will be making the decisions, who have the authority and flexibility to make the appropriate changes.

FC 2

In closing, I know that there are unwritten variables that will influence the preferred alternative as well. My hope is that variables such as politics, big money, special minority interests and business as usual will not win out over the scientific facts which can be used as a guide in doing what's best economically and environmentally along the Missouri River.

Other 22

Thank you.

HEARING OFFICER: Thank you, Ms. McManus.

MR. MOORE: Greg Bryant.

(Not present.)

MR. MOORE: Mark Schweizer.

MR. SCHWEIZER: Good evening, my name is Mark Schweizer, I'm with Amazonia Levy and Grains District, Amazonia, Missouri.

I guess maybe I would like to speak on behalf of the levy district for a little bit and then personally for -- it could have effect on my own operation.

I have approximately 6,000 acres in a levy district up here just north of you about six miles as part of the Pickslum (phonetic) Project when it was established. We are opposed to any change in the operation of the river.

Other 6

We're usually running about a 15 -- 14, 15 foot river in the spring right now. We have a lot of problems with drainage the way the river is being operated right now. Another four foot on it would just devastate our operation as far as our drainage system and stuff up there. We seem to have a lot

IntD 8

more problem with increasing every year in the last ten or fifteen years as far as the drainage problems that we have due to increased building and construction and paving and stuff like that that doesn't soak up any water it and comes off a lot faster, it all comes to the river. You add another four foot to that it's going to make it impossible for our drainage system to operate at all. I would think that would kind of be a design problem or a design error in the Pickslum Projects in itself if you start changing that around and it will make it impossible for the levy district to operate that way. Several levy districts have installed pumps already for the problems that we have right now, let alone putting another three to four foot on the river. So we are opposed to the changes that you're proposing.

IntD 8 (Cont.)

On a personal note, my family farms about 2,000 acres in two of the bottoms along the river here. We cannot afford a crop loss every three years. There's a potential, a very real potential of that. Not possible potential, but a real potential of that.

Commodity prices aren't very good to begin with and, you know, we're still trying to recover from the '93 flood. We can't handle one every three years. So not only is it an incumbrance to my family as far as an income on those floods like that or the potential of it, if we want to call it potential, looks to me like it's a reality if we do it. Put the equity in my ground and stuff is going to go to practically nothing by the time we get a -- if it's not profitable for me to farm, it's not going to be profitable for somebody else to buy it, then my whole livelihood is gone not only as a potential to earn income, but my equity that I have in my ground and stuff will be gone for anything to try and do something else with along the way.

FC 8

Those are just my concerns, I'll be brief since it's late. Thank you very much.

HEARING OFFICER: Thank you, Mr. Schweizer.

MR. MOORE: Roger Blaske.

MR. BLASKE: Won't take me long.

I'm Roger Blaske, president of Blaske Marine, Inc., a barge and tow boat operator on the

Missouri River, and I am not anti-environment, but the Fish and Wildlife Services is stating in their GP proposals is let's change the flow in the Missouri River and see if that helps the endangered species.

I believe we should improve habitat through engineering and see if that works rather than destroying an industry that is environmentally friendly, produces employment and whose economic benefits are not fairly represented.

Other 70, 129

The only proposed plan that can provide service for all the users and wildlife is the current water control plan with a sense of engineering and habitat restoration.

Other 6

Thank you.

HEARING OFFICER: Thank you, Mr. Blaske.

MR. MOORE: Mike Smith.

(Whereupon Mr. Smith read a prepared statement, which is attached to the transcript.)

HEARING OFFICER: Thank you, Mr.

Smith.

MR. MOORE: Melissa Blackley.

MS. BLACKLEY: My name's Melissa Blackley, I'm a member of the Ozark chapter of the Sierra Club of Missouri and I'm also an officer in the Thomas Hart Benton group of the Sierra Club here in Kansas City.

The Missouri is a natural resource and public resource, a natural flowing living resource for which many species are dependent. Humankind is just beginning to realize our interdependency with all other creatures and natural processes. As we have recognized our interdependence with the natural world, public priorities have changed.

The Endangered Species Act is one way the public has expressed their recognition of a responsibility to preservation and coexisting in the natural world. It's an expression of public priorities that must be considered in the management of the Missouri River.

EnSp 3

The Endangered Species Act is the law. And if Senator Bond and Representative Graves and other elected officials would like to

Other 7

1 change the law, they're in a good position to
2 do so. In the meantime, I would expect that
3 we would support the law.
4 The flexible -- much has been debated
5 tonight about the cost of change to the flow
6 of the Missouri. The only cost we're
7 discussing are economic costs. What are the
8 long-term costs of loss of species and habitat
9 and natural places to our society and our
10 world? The flexible flow alternative is a
11 reasoned approach incorporating sound science,
12 I believe, to effect changes in the flow of
13 the Missouri to responsibly include the public
14 priorities of habitat restoration, species
15 preservation and respect of natural
16 processes.

EnSp 28

17 The flexible flow alternative is a
18 compromise that re-evaluates the management of
19 the Missouri River to balance all public
20 priorities, not just the most vocal economic
21 interests.
22 I would like to thank the Corps for
23 considering all public priorities in the
24 management of the Missouri as a national
25 public resource.

Other 7

1 Thank you.
2 HEARING OFFICER: Thank you, Miss
3 Blackley.
4 MR. MOORE: Blake Hurst.
5 MR. HURST: My name is Blake
6 Hurst, I'm a farmer from Weston, Missouri.
7 Ecstatic to be the Ramada cleaning crew to
8 this podium. I wish to welcome you to the
9 State of Missouri. It occurs to me as a long
10 suffering Missouri football fan that this is
11 the only time we have to bring a group of
12 people in from Nebraska and beat on them for
13 three hours, four hours.
14 I'm speaking tonight from Missouri Farm
15 Bureau, the state's largest general farm
16 organization. And again, I'm a farmer from
17 Tarkio, Mexico, Missouri.
18 The Farm Bureau strongly opposes the flow
19 changes now being considered. While we remain
20 hopeful that a balance can be achieved with
21 the exception of the current plan, any options
22 are acceptable.

Other 6

23 Many people in this room have been
24 involved in this issue since its inception.
25 What started out as drought management has

evolved into a referendum on the Endangered Species Act, an opportunity to significantly expand mitigation program and another piece of the puzzle in eliminating river commerce altogether.

Today, unfortunately, we find ourselves arguing in several different states and Congress and even courtrooms. The U.S. Fish and Wildlife Service cites the Endangered Species Act, that's the reason of its origination. According to them, there is but one very skeptic way to avoid a jeopardy opinion. The more we see it, it's hard to believe. But I suppose it was hard to believe for those who lost their farms and irrigation water and in the irrigation district, too, but for now that's the law.

EnSp 8

WS 11

But it is somewhat ironic that Congress has voted on several occasions in support of language of prohibiting the Corps from implementing a spring rise. In fact, Congress has now said the Corps must maintain all authorized uses of the Missouri River. The U.S. agriculture economy remains extremely weak. The federal government has had to step

in for four consecutive years with emergency economic assistance.

The Bush administration has indicated that we must be more involved in global markets. Missouri farmers already export 25 to 30 percent of our annual production. We need to be more competitive. If that's the case, shouldn't we be doing everything possible to enhance river commerce not only on the Missouri, but other rivers such as the Mississippi. Why are we even considering changes that would likely terminate navigation on the Missouri. Our farmers already know the impact of higher flows in the spring. Ask anyone who was flooded in '93 or '95 or even this spring. The fact is we already have a spring rise and don't need or want man-made floods.

Nav 12

Some officials talk about the need for adaptive management. Like the old song, there's nothing more than nothing left to say, and we're concerned that this leaves little room for public input.

Other 10

In closing, Colonel, we're not opposed to any change, but let's focus on the real

105

ROBERTS & ASSOCIATES BY TOM ROBERTS, RPR, CCR

Other 70

problem and consider all the alternatives. We believe there are alternatives that could enhance the environment and habitat without major system modifications, without massive new land acquisition programs, without significant increases in energy cost and without controlled flooding. For this reason, we have no choice but to oppose alternates currently under consideration.

Thank you.

HEARING OFFICER: Thank, Mr. Hurst.

MR. MOORE: Omar Miller.

(Not present.)

MR. MOORE: Greg Bryant.

(Not Present.)

HEARING OFFICER: As much as I hate to ask this question, is there anyone else that would like to make a comment? Come on up, sir.

MR. HODGES: I was wondering if I was going to get to be last. My name is Greg Hodges, and actually I'm speaking for myself. Although I've served five times as the chairman to the agri-business community of the

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chamber, I'm a long-term boat club member and a former Aggie. I'm an instructor at Missouri Western.

As I prepared my five minutes of comments, my initial intent was to talk about spring flooding and how low summer river levels threaten pleasure boating on the lower river and will be devastating to full season navigation.

After over 20 years boating this section of the river, I can confidently say that flooding does not give more sand bars, it just gives you muddy disgusting ones to pull your clean boat up on.

Rec 2, 35, 37

Obviously, in times of drought changes are required, but a three-foot summer drop will make many ramps unusable, leave most docks high and dry. Lake Contrary, which is a major recreational area for the county, will be little more than a mud hole once you drop the water table out from under it. And I don't want to even get into the amount of damage it's going to do to the outboard units on these boats.

I also started to say something about how

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unfortunate it was that these hearings were scheduled during fall harvest and making it difficult for rural folks to show up en mass to protect their economic interests. I could talk about the demise of firms that build and maintain Missouri flood control structures, how the one remaining firm has only been hired in recent years to tear down diversion dams. I have a copy of that article if you would like it.

I could have talked about all kinds of negative economic impacts of the proposed alternatives, loss of tax base, that is, damp bottom ground being taken out of production. As cropping seasons are shortened, loss of the barge as a shipping alternative for crops. And the low amount of barge traffic is really irrelevant, it's the fact that you have a threat of another source to ship those crops out that keeps the transportation rates in line and supports farm prices.

Nav 7, 12

Of course, there's the threats to the utility companies and their businesses that are dependent on reliable water supplies.

I could take about how the logic behind

spring and fall floods to promote the three endangered species has more holes in it than grandma's colander.

EnSp 4

There are many ways to create new habitat that are much more efficient than some of the natural habitat that we've lost.

Other 70

My concern is that the Corps has lost sight of it's original charge to protect the public from flooding and to promote river navigation.

Other 6

One final comment. There seems to be a misconception that only folks above the dams use water for recreational boating. The St. Joseph Yacht Club has nearly a hundred member families, the Watheena Club approximately 40, the Flat Head Fishing Club of St. Joseph about 60, and add to that the hundreds of people that use public access at Nodaway Island and McArthur Drive. The growth and recreational use over the past last ten years has just been phenomenal. I'm adamantly opposed to the proposed changes.

Rec 10, 27

Thank you.

HEARING OFFICER: Thank you, Mr. Hodges.

Would anyone else here this evening care to make a comment?

(No response.)

HEARING OFFICER: In closing, I would like to remind you that the hearing administrative record will be open to 28 February 2002 for anyone wishing to submit written facts or electronic comments. Also, if you want to be on our mailing list or receive a copy of the transcript, you need to fill out one of the cards available at the table by the entrance.

I want to thank all of you for your participation, for your patience, for your endurance. I think it reflects the passion that you have in this issue, we understand that and we appreciate it.

If there are no further comments, this hearing session is closed.

(Hearing concluded at 10:55 p.m.)

STATE OF MISSOURI)
) ss
COUNTY OF PETTIS)

I, Thomas Roberts, Certified Shorthand Reporter and Notary Public of the State of Missouri do hereby certify there came before me the speakers concerning the matters in this cause.

I further certify that the foregoing transcript is a true and Corps transcript of my original stenographic notes.

I further certify that I am neither attorney or counsel, nor related to any party to said action, nor otherwise interested in the outcome thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal this 16th day of November, 2001.

Thomas H Roberts

THOMAS ROBERTS

DUE FROM: Corps

THOMAS H. ROBERTS NOTARY PUBLIC NOTARY PUBLIC - STATE OF MISSOURI PETTIS COUNTY MY COMMISSION EXPIRES AUG. 4, 2003

Testimony for Congressman Sam Graves

I would like to start by thanking the Corps of Engineers for hosting these public hearings. I believe that it is very important for people who live and work along the river to have an opportunity to voice their opinion on this very important issue. As the Congressman representing St. Joseph Missouri, I will not support any Missouri River flow plan that includes a spring rise.

The Missouri River brings great benefits to the people and economy of Northwest Missouri. Nearly 300 miles of the Missouri River runs through the 6th District, and I have joined the fight to preserve navigation and flood control on the River. I am confident that the Corps of Engineers can work with other interested parties to develop a management plan that enhances the aquatic habitat, promotes sound flood control, maintains river commerce and preserves the diverse uses of the Missouri River. The River is a vital part of our economy as well as a significant source of drinking water in Northwest Missouri.

As we all know, last year, the National Fish and Wildlife Service issued a final biological opinion regarding the Missouri River that proposed returning to the "natural flow" of the river causing higher water levels in the spring and lower levels in the fall. The artificial spring rise *may* help improve the breeding habitat of four endangered species: lest tern, piping plover, pallid sturgeon and bald eagle. I for one am not willing to risk the livelihood of farmers and business owners to implement a tactic that may or may not save a fish.

EnSp 17

The spring rise would devastate communities in my District that are located along the Missouri River. When pulses are released from upstream dams in the Dakotas and Montana, it takes as long as 12 days to reach St. Louis where the Missouri meets the Mississippi. Once water is released, it cannot be retrieved. Any rains during that 12-day period would make it impossible to control the amount of flooding that may occur. As a farmer I know all too well that the Missouri River often floods naturally; we do not need any additional, government-imposed floods.

FC 8

Furthermore, the low water levels in the fall could eliminate river transportation on the Missouri River. River commerce is very important to the agricultural community of our State. Missouri's agriculture producers depend heavily on river navigation to export grain to the world market. In fact, of the billions of dollars in commerce that travel the River annually, more than one-third of the commercial shipments are grain valuing more than $966 million. Additionally, barge transportation is an environmentally-friendly and cost-effective option for farmers and shippers moving goods down the River and into the world market.

NAV 12, 7, 23

Since I was elected, I have fought along side other members of the delegation to prevent these government-imposed floods from becoming a reality. I will continue to work with my colleagues to stop the spring rise and split navigation season. I am committed to this issue and I am confident that working together, we should be able to find a balanced compromise that is not at the expense of landowners and farmers working along the banks of the Missouri River.

Other 7

Other 7 (con't)

Thank you for your time and attention.

STATEMENT BY SENATOR KIT BOND
ON MISSOURI RIVER
MASTER WATER CONTROL MANUAL
PUBLIC REVIEW

- ST. JOE November 1st
- KANSAS CITY November 6th
- JEFF CITY November 7th
- ST. LOUIS November 13th

To be presented on behalf of Senator Kit Bond by his representative:

"Col. Fastabend (or principal), members of the Corps, and my Missouri neighbors, I regret that I cannot be here tonight because the Missouri hearings have been scheduled during the middle of the week when Senate is in legislative session. Thank you for the opportunity to provide initial public testimony. More comprehensive testimony will be provided later in the comment period when I have the opportunity to review the materials in full that were just recently made available for the public for inspection.

On that point, I renew my previous request that the comment period be extended and that an additional public hearing be held in Missouri at the end of the public comment period so that experts in our State have a fair opportunity to review the hundreds of pages of technical data. As I noted previously, it has taken the Corps many years to compile the data and public comment would be much more meaningful if the public had more than a few weeks to review it.

Other 26

My sincere thanks to the many people who have taken the time to appear here tonight to discuss this important matter. Leaving your office, your home, your family or your field to come stand in line to testify - in many cases to testify again - demonstrates your commitment to public involvement and proves your confidence that the government will actually listen. In the end, it will be up to the Government to prove if your confidence in them was well-placed. They should listen to you because you are the ones who will have to live every day with the consequences of the decisions that are proposed to be made.

In summary, I believe that government should protect people from flooding, not cause floods. It should produce more efficient transportation options, not railroad monopolies, and it should continue the clean production of hydropower, not discourage it. This is always the case but it is even more obviously the case when our economy slows and jobs are at risks and families are feeling serious economic pain. The Fish and Wildlife Service plan fails because the plan's value to fish habitat is dubious while its risk to people is very real.

Other 6

The good news is that I believe this new Administration will listen to you and wants to find ways to improve fish and wildlife habitat without hurting people and property. This Administration did not start this mess, but they are left to clean it up. The President will soon have language approved by Congress in the Energy and Water Appropriations Act for 2002 which states clearly that the Secretary of the Army 'may consider and propose alternatives for achieving species recovery other than the alternatives specifically prescribed by the United States Fish and Wildlife Service.' It says further that, 'the Secretary shall consider the views of other Federal agencies, non-Federal agencies, and individuals to ensure that other congressionally authorized purposes are maintained.'

This language means two things: It means the Fish and Wildlife Service does not have a monopoly on this process and it means that the Army must maintain flood control and navigation.

In the end, I believe that the process can and will produce positive initiatives to help improve habitat for fish and wildlife and I believe that it will do so without selecting an alternative which injures people and property.

The proposition before the government is as follows: Shall this government increase your flood risk, bankrupt water transportation, leave shippers to the mercy of a railroad monopoly, and reduce energy production during peak periods of energy demand during an energy crisis because there is a chance it might help three endangered species?

This may be a fascinating experiment but only for those who propose it from a safe distance. It should be rejected on behalf of those who have live with the consequences - those who have to pump water out of their basements, rebuild their levees, watch their fields go unplanted, wait to see if and when railroad cars are available to pick up grain or who struggle to pay their utility bills.

This experiment is too dangerous and defies common sense. People downstream rely on the river for their livelihood and they know the risk and have felt the economic and human loss when the river behaves outside its average tendencies. At the edge of these tender averages, people have died. In Missouri, on average, it is neither cold nor hot. The Corps says that on average, few will be hurt much but it isn't the averages we are worried about, it is the additional extremes that we cannot tolerate and this plan will give us more years that homes and farms flood. The Fish and Wildlife Service responds that people already face risk so why wouldn't they be willing to face even greater risk. Again, that is something that only someone outside the floodplain could possibly and absurdly suggest.

Other 48
FC 2

The science of a river this size is extremely complex and the understanding of how everything interacts is understandably minimal. That is why you are not likely to field a group of scientists willing to bet their own jobs that the Fish and Wildlife Service alternative would restore the palid sturgeon population. They are clearly willing to bet your jobs. The Fish and Wildlife Service, like the rest of us, want there to be more palid in the river, but the Fish and Wildlife Service also wants to avoid going to court and since some have threatened to sue them if they don't propose a spring rise and summer low flow, they propose a spring rise and summer low flow.

Other 200

They then attempt to market it to the public as being necessary because it is natural when in fact

it is not. The proposed summer low would occur when the historic natural high peak occurred following the upstream snow-melt period. This proposal inverts the natural hydrograph that is so often used to justify the pain of the Fish and Wildlife proposal.

We are fully aware of a natural 'spring rise' because in Missouri, we already have one. It is dangerous and it floods rural and urban communities without warning. When it rains in the spring, unregulated tributary flows swell the river from normal to flood stage in hours and this is the monster that the Fish and Wildlife Service wants us to flirt with by adding what they call 'no more than 3 feet' of water in the spring. FC 8

Until officials can accurately make 14 day weather forecasts, they are simply playing Russian Roulette with the gun barrel pointed at your heads.

What the Fish and Wildlife Service is really hanging their hat on is called adaptive management which was revealed in recent Fish and Wildlife Service testimony for what it really is: -- the desire to go much further than specifically prescribed without the hassle of complying with the law or consulting the pubic. Other 3

In Sioux City, Iowa, on October 11, the Fish and Wildlife Agency testified as follows: 'Our agency, and the Corps, also recognized the importance of some flexibility in management that would enable Missouri River managers to capitalize on existing water conditions to meet endangered species objectives without having to go through another 12-year process.'

Besides showing contempt for a process that involves the public, it shows that they know that their plan is full of holes otherwise they wouldn't be asking for the flexibility to change their plan without consulting the people who pay their salaries. Other 10

In the end of this process, I believe that part of what will happen is the same thing that happened seven years ago. This Administration, like the Clinton Administration, will hear from the people on the Missouri and Mississippi Rivers and determine that the risk to people and property is too great and reject the nonsense.

For those who are new or young, the Corps was in St. Joseph, seven years ago with roughly the same "spring flood" proposal and the same notion that the river transportation season should be shortened but then, it was a more natural hydrograph than what it is currently being proposing.

Seven years ago, the plan was condemned from Omaha to New Orleans by the public. I have been very critical of the Clinton Administration for trying to force this down our throats this last year, but everyone should be reminded that it was the Clinton Administration in 1994 who proposed it only to reject it subsequently.

Back in March 1995 Acting Secretary of Agriculture Richard E. Rominger notified the Corps in a detailed letter that the U.S. Department of Agriculture "opposes the [preferred alternative] because of the potentially damaging effects that this plan poses for lower Missouri River basin farmers, agricultural shippers, and the navigation industry."

Back in April of 1995 Secretary of Transportation Federico Pena outlined in written detail his department's opposition to the plan to shorten the transportation season. He concluded, "I am concerned that operations under the proposed alternative would severely impact navigation on the Missouri River, and may restrict navigation on the Mississippi River during periods of drought."

Now that was when the Departments were free to speak and before the Fish and Widllife Service became authorized to speak for all other departments. Those were the honest views from experts from Cabinet-level positions who are appointed by someone who was elected and confirmed by the U.S. Senate.

Each Secretary asked the Army to coordinate with the Department of Agriculture and the Department of Transportation which the Army has not done but I predict will be forced to do before this process is over.

Governor Holden and the Mississippi River Governors of Kentucky, Tennessee, Louisiana, Mississippi, Illinois, Arkansas, Wisconsin and Minnesota have written to the President earlier this year to communicate their opposition to this plan because of the impacts it will have on the Mississippi River which you will learn more about when you travel to Memphis and New Orleans.

There are nearly 100 organizations of the National Waterways Alliance from Virginia to Oklahoma to Mississippi to Minnesota to Alabama to Nebraska to Louisiana to Ohio and Pennsylvania who have written in opposition to what the Fish and Wildlife Service is trying to impose.

The American Soybean Association, National Corn Growers Association, National Association of Wheat Growers, National Grain and Feed Association and other national groups who represent farmers have written in protest of the Service proposal.

I want the people here in St. Joseph to know that you are not alone and that your voice is being heard and that your team is growing and will grow louder and more forceful in the months ahead.

I believe what will happen at the end that did not happen seven years ago is that the Administration will actually identify projects and approaches that build habitat but do not injure people and property. The Bush team will work with the Congress, the States and the public to fund and implement them aggressively.

There are many ways to improve fish and wildlife habitat without hurting people and property. That should be and will be the ultimate positive approach that I believe the government will take. I believe that the upstream states, and not just Missouri, should have a role in devoting their own state resources to improve the river rather than just demand that the benefits be imported and the burdens exported. They want more water during periods of prolonged drought and so do we, but we are not hiding behind the Endangered Species Act to argue our case. Other 7, 70

Many brave young men and women are in harm's way risking their lives as we speak to keep this country safe. At home, we must make our economy strong and we look to government to work with us, not against us, in fulfilling that mission.

I thank the public for being here tonight and I thank the Corps for being available to listen."

MISSOURI RIVER HEARING
NOVEMBER 1, 2001
ST. JOSEPH, MISSOURI

Thank you for this opportunity to share my thoughts and observations with you this evening.

I'm Lowell Mohler, and serve as Director of Agriculture for the State of Missouri and will be presenting this evening the State of Missouri's position on management of the Missouri River.

I'm also a grain farmer with my farm in the Missouri River basin near Jefferson City and have lived or been around the Missouri River all of my life.

This issue is of supreme importance not only to me but to all of Missouri and the entire nation, and I first want to thank you for holding this hearing to listen to the comments and concerns of the people of Missouri.

As Missouri continues to evaluate the newest data from the Corps, we will be looking to ensure that the Missouri River remains a "river of many uses," including recreation,

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navigation, agriculture, hydropower, water supply, and fish and wildlife conservation. Balancing the interests of both the upstream and downstream reaches of the river is absolutely essential to achieving this goal.

Because of the vital importance of these issues, Missouri maintains that all decisions must be based on sound science. We strongly believe that if all sides of this discussion commit themselves to adherence to solutions founded on valid scientific studies, that will enable us to make substantial progress on resolving the issues that have been debated for so many years.

Other 22

Contrary to some representations, Missouri is firmly committed to improving the environmental health of the Missouri River. However, we believe that there are ways to achieve these benefits while still protecting, and possibly enhancing, the lives and livelihoods of the Missourians who live on or near the banks of the Missouri River.

A significant concern to Missourians is that many of the proposals in the Revised Draft Environmental Impact

2

Statement (RDEIS) include plans to increase total system storage in the upper lakes. We have apprehensions that such changes would significantly reduce the ability of the Corps to ensure that the River is managed to the benefit of all residents of the basin.

The Corps must have adequate flexibility to respond to a wide variety of situations, both anticipated and unforeseen. We believe these proposed changes to storage levels in the upper lakes would limit the Corps' capacity to perform its statutorily mandated role.

FC 13

Missouri has further concerns that these changes to total system storage could eventually restrict the use of water by downstream states and thus be detrimental to the future welfare of Missourians. Missouri strongly opposes any plan that would reduce the amount of usable water released to downstream states.

Other 9, 172

Furthermore, in light of the importance of the endangered species in this discussion, Missouri also suggests

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that the effects of increased storage of water in the upper lakes on the endangered species be examined. Comprehensive data regarding the impact of higher levels in the upper lakes on the endangered species is not currently available, and we believe this information should be included in this dialogue.

EnSp 20

A second key component of many of the current proposals is for a variety of reduced flows from Gavins Point Dam in the summer. The flow levels and timing of the current proposals differ significantly from the historic hydrograph. Missouri recognizes that a properly timed and proportioned reduced late summer flow will likely benefit some sections of the River's ecosystem. I thus support efforts to achieve a flow level that will help these species, while also ensuring that the long-term viability of river commerce on the Missouri River is not degraded.

EnSp 2

Missouri believes that such a flow level exists. Our state has advocated a reduced flow of 41,000 cfs at Kansas City from August first through September fifteenth. The goal of this

Fish 10

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proposal is to accomplish these flow conditions three of every five years in order to balance the interests of the endangered species, recreation, and the continued support of other uses of the Missouri River.

Proposals to depart from current operations must also consider the effects of any changes on Mississippi River system navigation. The entire inland waterway system depends on the supplemental flows from the Missouri River into the Mississippi. I do not support proposals that are detrimental to the long-term viability of navigation on either the Missouri River or the Mississippi River.

Nav 59
Miss 4

Finally, any reduced summer flow alterations must be water neutral. As I said before, Missouri will strenuously oppose proposals that reduce the amount of useable water released to downstream states.

Other 9, 172

A third key component of many of the current proposals is a periodic spring rise, created by federal releases of additional water from Gavins Point Dam during May.

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Missouri has serious concerns that the current proposals for expanded spring releases could have adverse effects for the bottomland farmer in Missouri, including increased flood risk, higher groundwater levels and inadequate drainage throughout the lower basin.

FC 8
IntD 8
GW 7

Additional spring releases could potentially compound the effects of large rainfall events downstream of Gavins Point, thereby increasing the risk of unanticipated flow levels in downstream states. The dangers of such a spring rise are increased because water from Gavins Point Dam takes approximately 10 days to reach St. Louis. Spring flooding keeps farmers out of their fields during the planting season, and higher groundwater levels reduce yields, thereby having a significant negative impact on Missouri's bottomland farming community. Missouri's agricultural community must be a top priority in this discussion, and I will strive to ensure that the agricultural community along the Missouri River remains viable and profitable in the twenty-first century.

FC 8

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Such concerns must be weighed against the fact that the lower stretches of the Missouri River, including the entire 553 miles in Missouri, already receive a natural spring rise from tributary inflow. Thus, such a change would have little impact on the riverine species living in the stretch of the river within or bordering on the state of Missouri.

EnSp 29

One issue that has occasionally been lost because of the more contentious nature of some of the other proposals Is the importance of habitat improvement projects in restoring the aquatic diversity lost to the creation of the upstream lakes, and channelization and bank stabilization efforts over the last fifty years. Missouri believes that an active program of habitat creation and restoration, augmented by appropriate alterations to late summer flows, would substantially assist the recovery of the endangered species. Our state has undertaken a number of habitat improvement projects, often in concert with the Corps, and we believe that these cost-effective and

Other 70

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uncontroversial efforts deserve significant investment by the federal government.

Finally, one issue of high-importance to our state, which is not currently in any proposals but has been raised at various times during this discussion, is the possibility of water transfers out of the Missouri River basin. Missouri unequivocally opposes out-of-basin transfers. Such transfers constitute economic and ecological threats given the existing demands for water within the basin and the needs of species dependent on the river for their survival.

Other 172

In conclusion, Missouri is firmly committed to restoring and protecting the Missouri River - and ensuring that the river is managed for all citizens. As the evaluation process of proposed changes continues, I want to reiterate the importance of basing all decisions on sound scientific data, and further urge that all of the potential impacts and opportunities to both the Missouri and Mississippi River systems for each component of every proposal be considered. Thank you for the

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opportunity to express my position on these extremely important issues, and I would be glad to respond to any questions.

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U.S. Fish and Wildlife Service
Public Comments
Missouri River Master Manual Hearing

Good evening, my name is Charles Scott and I'm here this evening on behalf of the U.S. Fish and Wildlife Service to issue a brief statement on the Revised Draft Environmental Impact Statement for the Missouri River Master Water Control Manual. I'm also here to listen to the comments in person from citizens on this important issue.

The Service has primary authority for oversight of our nation's rarest animals under the Endangered Species Act. The Missouri River is home to the endangered pallid sturgeon and least tern, and the threatened piping plover. The decline of these species tells us that the river is not healthy for its native fish and wildlife, and that there needs to be a change in its management to restore the Missouri to a more naturally functioning river system. A healthy river provides wildlife habitat, supports fishing, and makes boating an attractive recreational activity.

Congress committed the Federal Government to preventing extinctions by requiring Federal agencies to use their authorities to conserve endangered and threatened species. During the last 12 years our agency has been working with the U. S. Army Corps of Engineers to modernize the management of the Missouri River to help stabilize and hopefully, begin to increase and recover populations of these vary rare animals. This new approach was described recently in a document called the "Missouri River Biological Opinion," published in November 2000.

The biological opinion looks at the river as a system and outlines the status of these rare species, the effects of the current operation on them, and a reasonable and prudent alternative to the current operation that will not jeopardize their continued existence.

Our biological opinion is based on the best available science and includes nearly 500 scientific references. In addition, we've sought out 6 respected scientists – "big river specialists" – who confirmed the need to address flow management, as well as habitat restoration. Further, the Missouri River Natural Resources Committee, a group comprised of the state experts on

Missouri River management, endorses the science in the opinion.

If you have read the RDEIS or summary document, you understand that the "GP alternatives" encompass the range of flows identified by the Service as necessary below Gavin's Point Dam to keep the listed species from being jeopardized. Our agency, and the Corps, also recognized the importance of some flexibility in management that would enable Missouri River managers to capitalize on existing water conditions to meet endangered species objectives without having to go through another 12-year process.

Other management changes identified in the biological opinion include a "spring rise" out of Fort Peck Dam, an improved hatchery operation to assist declining pallid sturgeon populations, restoration of approximately 20% of the lost aquatic habitat in the lowest 1/3 of the river, intrasystem unbalancing of the three largest reservoirs, and acceptance of an adaptive management framework that would include improved overall monitoring of the river.

In closing, the Service supports the identified goal of the revised master

manual - to manage the river to serve the contemporary needs of the Missouri River Basin and Nation. These needs include taking steps to ensure that threatened and endangered species are protected while maintaining many other socioeconomic benefits being provided by the operation of the Missouri River dams. The Service stands behind the science used in the opinion, and is confident that the operational changes identified in our opinion, and included in the RDEIS as GP alternatives will ensure that these rare species continue to be a part of the Missouri River's living wildlife legacy.

The Missouri River is a tremendous river, with a significant and revered heritage. Our influence has altered the river greatly. Changes are needed to modernize and restore health to the river – for the benefit of rare species and for people, too.

5

STATE OF KANSAS

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KANSAS DEPARTMENT OF AGRICULTURE

U. S. Corps of Engineers

November 1, 2001

Testimony Regarding the Revised Draft Environmental Impact Statement, Missouri River Master Water Control Manual Review and Update

Testimony by
David L. Pope, Chief Engineer
Division of Water Resources, Kansas Department of Agriculture

Thank you for this opportunity to provide comments on the revised draft environmental impact statement for the Missouri River Master Manual Review. I am David L. Pope, Chief Engineer of the Kansas Department of Agriculture's Division of Water Resources. I am responsible for administering laws related to the conservation, management, use and control of water and water courses in Kansas. Additionally, I serve as the Governor's representative on the Missouri River Basin Association (MRBA). As a result, my staff and I have been active participants in the Master Manual Review and Update since its inception more than a decade ago.

Attached to my testimony is a copy of MRBA's November 11, 1999, recommendations for the Missouri River Master Manual Review. These recommendations were developed by the association in response to the request from the Corps of Engineers. They are based on extensive discussions between MRBA's directors, and they include input from a diverse set of basin constituents. I am pleased to see the Corps acknowledge the value of this work and incorporate most of MRBA's recommendations into the alternatives included in the revised draft EIS.

Other 61

My comments tonight on the Revised Draft Environmental Impact Statement are preliminary. They will be supplemented with formal written comments after we have a chance to review the documents, hear from our constituents, and consult with other state agencies and the Governor's office.

Before I move on to our specific comments, I would like to say that I appreciate the professionalism your staff has shown, and for their help in answering questions and providing us with new insight related to the many draft documents.

Equal Opportunity in Employment and Services

Kansas' Comments

There are a number of components in all of the alternatives in the revised draft EIS that Kansas can support:

1) First, the needs of those who depend on the Missouri River as a water supply, such as for municipal and industrial uses, remains an extremely high priority. It appears that all alternatives being considered by the Corps in the revised draft EIS recognize this priority. As the Corps completes its work, the water supply needs of the basin must be remain a priority.

WS 11

2) Second, the Corps' system of reservoirs on the Missouri River provide significant flood control benefits to the agricultural lands, residential areas and business districts downstream. We understand these benefits will be preserved through the continuing use of existing flood storage and flood control targets included in all of the alternatives being considered. We continue to evaluate the impacts of the various GP options to flood control benefits.

FC 8

3) Kansas supports the revised reservoir operating criteria that MRBA recommended and the Corps included in each of its alternatives to the current water control manual. We believe these criteria represent as good a compromise as can be reached for using the reservoir system to meet the diverse needs of the upper- and lower-basin states.

Other - 61

Impacts on the Kansas River System

Throughout this process, we raised concerns about the impact these decisions will have on reservoirs in the Kansas River system, including Tuttle Creek, Milford and Perry. The Corps of Engineers sometimes calls on the Kansas River system to support Missouri River navigation when the Kansas City target flows are not met. This happens most frequently in the fall, and we consistently noted significant, negative impacts on these reservoirs with marginal, or virtually undetectable, benefits to navigation. We frequently requested that the cost and benefits of the system's support to navigation be given careful consideration. The Corps' position has been that a review of the Kansas River system is not within the scope of the Master Manual Review. We continue to believe that it is inconsistent for the Corps to maintain that the Kansas River is insignificant to the Master Manual Review, yet continue to assert that benefits to navigation are significant.

Nav 21, 22

Although the Corps of Engineers recently initiated a study of the Kansas River system, we believe that the impact of the proposed Missouri River operation changes on Kansas River basin projects has not been sufficiently addressed in the Missouri River master manual review. For example, if higher spring flows are implemented on the Missouri River, what would be the effect on flood control storage in the Kansas projects? Similarly, if lower summer flows are

FC 30

implemented on the Missouri River, what would be the effect on navigation support from, and flood control in, the Kansas River projects? These questions have not been addressed. Proposed changes in Missouri River operations should not impact operations of the Kansas River system. Since the potential impacts and benefits of continued use of the Kansas River system in Missouri River operations are not well documented, we believe that operation of the Kansas River to provide navigation support should be deleted from the master manual. Nav 21, 22

Flow Management for Endangered Species and Environmental Restoration

Kansas acknowledges that the Corps of Engineers is obligated to protect endangered species of the basin. The recovery of the endangered species and restoration of the Missouri River will require significant habitat restoration on the Missouri River and in its floodplain, which Kansas strongly supports. EnSp 1, 26

With regard to flow management alternatives, the GP options are the Corps' attempt, after consulting with the U.S. Fish and Wildlife Service, to develop alternatives that protect these endangered species and work to restore the Missouri River and its floodplain. Kansas currently is reviewing the details of the various alternatives and will provide its final recommendations on the matter in its written comment on the document. The review will carefully consider the potential combinations of physical habitat restoration and flow management alternatives the Corps presented to protect endangered species.

Future Depletions

As we stated in the past, we are concerned about the potential for increasing loss of benefits in the future should substantial additional depletions to the Missouri River reservoir system's inflow occur. We believe that the cost of these increased depletions should not be borne by further reductions to releases downstream alone, but should be shared by upstream states. Other 9

Conclusion

We appreciate the opportunity to provide testimony on this complex and important issue. We trust these comments are helpful to the Corps.

Page 3 of 3

MRBA

Missouri River Basin Association

November 19, 1999

BG Carl A. Strock
Northwest Division
U.S. Army Corps of Engineers
P.O. Box 2870
Portland, OR 97208-2870

Dear General Strock:

The Missouri River Basin Association (MRBA) thanks you and your staff for supporting MRBA's efforts to develop recommendations for the preferred alternative in the Revised Draft Environmental Impact Statement (RDEIS) the Corps will publish early next year. On behalf of MRBA, we are pleased to provide the following recommendations to assist in your decision.

The submission of these recommendations does not constitute a waiver of rights by any of the Missouri River Basin States or Tribes nor does it constitute a river basin compact or equitable apportionment of the waters of the Missouri River Basin among the States. They are provided for the sole purpose of assisting the Corps of Engineers in making revisions to the Master Manual.

Although it has been difficult to balance the competing uses of the river system, MRBA believes our recommended changes to the management of the Missouri River allow both economic and environmental interests to prosper. To develop these suggestions, all the basin interests have had to make some difficult decisions in the spirit of compromise and general well being of the entire basin.

MRBA will continue to encourage input from the basin's constituents throughout the Master Manual review and update process. The Association urges the Corps and technical staff from the basin states to continue to work together to minimize adverse operational impacts in the basin.

MRBA recognizes the concerns of the Missouri River Basin Indian Tribes and supports ongoing consultations on the impacts of changes to the existing Master Manual on tribal cultural and economic resources. In addition, one basin state, Missouri, cannot support some of the recommendations in this letter. However, Missouri will continue to support the process and participate in the Missouri River Basin Association.

Flow Management Recommendations:

Water Supply:

The existing Master Water Control Manual emphasizes the importance of operating the reservoir system to provide sufficient river flows in reaches between reservoirs and in the lower river to meet water supply needs. The Corps' preferred alternative must continue to meet these critical needs.

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KS DEPT OF AGRICULTURE

P.O. Box 301 Lewistown, Montana 59457-0301 406-538-4469 Fax 406-538-4369

Navigation Support Guidelines:

The flow management recommendations provided below have been revised from the draft recommendations MRBA submitted in its August 31 letter to you. These revisions reflect concerns MRBA heard from various river users, particularly navigators, and additional follow-up modeling by the Corps. Although the revised flow recommendations fall short of meeting all the needs of all river uses, they represent our best effort based on current information to find an acceptable compromise.

MRBA believes the Corps should endeavor to keep Missouri River navigation viable during a drought like the one experienced in the 1980s by:

1) avoiding when possible consecutive years of minimum (7.5 feet of draft) service level flows, and
2) maintaining when possible a navigation season length of at least 7.1 months.

The MRBA also recognizes that droughts of greater intensity and duration have occurred (e.g. drought of the 1930's) and are likely to occur in the future. Further, we recognize that flow support for navigation would have to be suspended at some point (navigation preclude value) to ensure there is adequate water reserved to meet the other authorized purposes during such an extended drought.

Using data provided by your staff, we believe the following set of water control plan guidelines would achieve the results we desire.

Navigation Service Level Check:

8 Feet of Draft
(Full service minus 3,000 cfs)

March 15	less than 54.5 MAF
July 1	less than 59.0 MAF

Season Length Check:
7.1 Month Season

July 1	less than 59.0 MAF

Severe Drought Year Service Level [1]

7.5 feet of draft (full service minus 6,000 cfs) July 1 to August 20 of following year

[1] A severe drought year is one in which there is no gain in total system storage between March 15 and July 1.

Navigation Preclude:

March 15	less than 31 MAF

Current model runs using the guidelines listed above result in a minimum System Storage level of 43 MAF during a drought similar to that experienced in the 1980's.

Evacuation of Flood Control Zone:

MRBA supports the release of excess summer and fall storage to meet the needs of downstream uses. A flow target would be added at St. Charles, Missouri to measure possible navigation impacts in the surrounding reaches. A maximum additional 5,000 cfs would be released from the Missouri River mainstem system if the St. Charles target indicates that navigation impacts will occur. The releases shall be subject to the following constraints:

1. Water shall not be drafted from the Carryover Multiple Use Zone.
2. The releases shall occur after the end of the Tern and Plover nesting period.
3. The releases shall stop at the conclusion of the Missouri River navigation season.
4. Excess storage shall be released prior to ice-in.
5. Downstream flood targets shall not be exceeded.

Given that the Corps has generally been in an evacuation mode since 1993, MRBA recommends that the Corps presents its flood storage evacuation guidelines in the RDEIS and discusses them during the public hearings that follow release of the document.

Water Depletions:

Changes to the current level of depletions of water from the Missouri River and its tributaries may have an impact on all mainstem project purposes. The MRBA Directors commit to exploring mechanisms to determine how to fairly share these impacts on project operations. The first step of this process is to establish baseline information on the current level of depletions. MRBA urges the basin's states, Indian tribes, the Corps, and other federal agencies to begin working on this task immediately.

Environmental Recommendations:

MRBA recognizes the need to recover the basin's threatened and endangered species and to prevent future listings of such species. The key to MRBA's environmental recommendations is the development of an adaptive management process to help recover the basin's threatened and endangered fish and wildlife populations.

MRBA recommends an approach to species recovery that includes the four components listed below:

1. Recovery Committee:

MRBA recognizes the need for the basin's states, Indian tribes, water users, and other interested parties to be involved in discussions among federal agencies concerning the recovery of the basin's threatened and endangered species. Other river basins facing similar issues have formed committees comprised of diverse representation from state water and fish and wildlife managers, tribal representatives, and environmental and economic interests to assist federal agencies on species recovery plans. MRBA recommends that the Corps, the U.S. Fish and Wildlife Service, and other federal agencies work with MRBA, state fish and wildlife agencies, and other water users and interests to form such a committee in the Missouri River basin. Recommendations of the committee would be subject to requirements of the National Environmental Policy Act prior to their implementation.

2. River Flows:

Unbalancing of the Upper Basin Reservoirs:

To provide benefits to sports fisheries, recreation, and endangered species in the upper three reservoirs, MRBA recommends that the Corps implement when possible, without compromising downstream flood control, an intrasystem trading of stored water (unbalanced storage) among Ft. Peck, Sakakawea, and Oahe reservoirs. MRBA acknowledges the flood control concerns of downstream interests and encourages the Corps to avoid when possible increases in the use of the Exclusive Flood Control Pool, especially in Oahe Reservoir.

Lower River Habitat Improvement and Recreation Flows:

To evacuate excess water, river flows are often significantly above full service navigation targets. To enhance wildlife and recreation in the lower river, when practical and consistent with other project purposes, the Corps should reduce releases from August 1 to September 15 to full navigation service levels (41 kcfs at Kansas City).

Fort Peck Fish Enhancement Flows:

As part of the adaptive management program, the Missouri River Basin Association recommends trial fish enhancement flows from Fort Peck Reservoir. The enhanced flows will be coordinated with the unbalancing of the upper basin reservoirs, and thus will occur approximately every third year. These higher flows will be designed to enhance the recovery of the pallid sturgeon and to provide habitat improvements for the least tern and piping plover. MRBA will also work closely with officials from the Fort Peck Indian Reservation to ensure the protection of the Tribes' cultural resources there. The enhanced flows will adhere to the following criteria:

Flow Rates:	22,000 cfs
Timing:	Begin the first week in June
Duration:	Two weeks
Frequency:	Every third year, to coincide with scheduled low water year for Fort Peck Reservoir in the Corps' unbalancing of the upper basin reservoirs.

MRBA will work with state, tribal, federal, and local officials in the next few months to:

a) develop appropriate flood and drought control restraints to impose on the proposed Fort Peck spring rise,
b) b) estimate the cost of spilling water from the dam to increase river temperatures below Fort Peck Reservoir, and
c) develop a strategy to protect tribal cultural resources and various infrastructure developments below the dam. The effect of the enhanced flow trials will be closely monitored through the Missouri River Environmental Assessment Program (MoREAP) program (see #4 below).

MRBA also recommends that all modifications to the existing flow patterns throughout the river system be implemented on a trial basis of approximately seven years. Throughout this period, extensive monitoring will determine the success of various approaches and the need to modify efforts to recover the basin's threatened and endangered species. In coordination with this experimental spring rise, winter releases will be modified as an adaptive management approach to minimize impacts during ice-up.

Gavins Point Releases:

MRBA recognizes the controversial nature of adjustments to releases from Gavins Point Dam. MRBA recommends that the Recovery Committee investigate the benefits and adverse impacts of flow adjustments to the existing uses of the river system.

3. Habitat Acquisition and Enhancement:

MRBA generally supports efforts to acquire land or easements from willing sellers as a means of enhancing fish and wildlife habitat in the basin. MRBA sees a need for continued funding of and coordination between programs that buy land or easements from willing sellers, compensation of counties and levee districts for lost taxes or fees, and enhancing the wildlife habitat value of those lands. The habitat acquisition and enhancement activities generally fall under the following programs:

- The Fish and Wildlife Mitigation Project: This program was originally authorized under the Water Resources Development Act of 1986 (WRDA). MRBA recommends that this project be adequately funded (at least $15 million per year) while keeping administrative costs to a minimum. The 1999 WRDA bill recently re-authorized the Mitigation Project and increased the acreage eligible for the program.

- Sec. 514 of WRDA 1999: This companion piece of legislation that was also authorized in the WRDA 1999 will develop projects between the banks of the river and will allow Montana and the Dakotas to participate in habitat enhancement activities in the basin. MRBA supports this program.
- The U.S. Fish and Wildlife Service Refuge System: The U.S. Fish and Wildlife Refuge System is a critical element in the recovery of the basin's endangered species, and MRBA recognizes its value and the need for its continued viability.

MRBA also recommends investigating opportunities to acquire and enhance off-channel habitat to support the basin's threatened and endangered species. Such a program might provide incentives to floodplain landowners willing to participate in fish and wildlife habitat enhancement. Other programs that help restore the basin's fish and wildlife habitat such as the Corps' 1135 Program also receive the enthusiastic support of MRBA.

4. Monitoring and Research:

MRBA recommends immediate funding and implementation of a basinwide biological and hydrologic monitoring and research program to improve overall river management and enhance the basin's fish and wildlife habitat and species recovery. The main monitoring component is the Missouri River Environmental Assessment Program developed at MRBA's request by the Missouri River Natural Resources Committee. The MoREAP program should be administered by the USGS-BRD office in Columbia, Missouri.

A related research activity is the National Academy of Sciences study of the Missouri River. This study will take approximately two years and has been designed to determine the status of scientific understanding of the Missouri River. The study will identify areas where additional research of the river system is needed and it will be used as a tool to focus MoREAP's research and monitoring activities.

Tribal Recommendations:

MRBA supports the following activities and principles regarding the Missouri Basin Indian Tribes:

- Access by the Missouri Basin Indian Tribes to low cost hydropower produced from the dams on the mainstem Missouri River.
- Funding and training to help the Tribes identify and protect their cultural resources.
- Adequate consultation with the Tribes on the Fort Peck Indian Reservation concerning the proposed spring rise from Fort Peck Dam.
- Inclusion in the Master Manual Revised Draft Environmental Impact Statement a narrative about tribal considerations.
- Continuing studies on the impacts of the selected new alternative on the Missouri Basin Indian Tribes, their respective economies, and their cultural resources.

Other Recommendations:

MRBA refers the Corps and others to the Association's Missouri River Planning Recommendations document published in April 1998. The document includes a variety of ideas designed to improve the basin's overall economic and environmental conditions and was developed with input and support of constituents throughout the basin.

MRBA is currently refining those recommendations and working towards their implementation. This work will be the central focus of MRBA over the next several years, and we look forward to cooperating with the Corps, other federal agencies, and Congress in that endeavor.

MRBA also recommends exploring the development of a financial relief and/or incentive program for river interests impacted by operational changes brought on by extreme climatological conditions.

* * * *

These constitute our recommendations for the preferred alternative that the Corps will publish in its RDEIS early next year. We encourage the Corps to proceed with its planned public review process following the release of its RDEIS. We recognize that there is still much work to be done before a new Master Water Control Manual for the Missouri River system is adopted, and we thank you for giving the states and Indian tribes this opportunity to develop and express our recommendations.

Sincerely,

Bud Clinch

Bud Clinch, President
Missouri River Basin Association

Cc: Missouri River Basin Governors
Col. Meuleners, Corps of Engineers
MRBA State and Tribal Directors
MRBA Federal Representatives
Missouri River Basin State Fish and Wildlife Agencies
Missouri River Natural Resources Committee Executive Director
MRBA Congressional Delegation

Testimony of Senator David Klindt
St. Joseph, Missouri Public Hearing
U.S. Army Corps of Engineers - Revised Draft Environmental Impact Statement
Missouri River Master Water Control Manual

November 1, 2001

It is an honor to be here tonight to represent the constituents of the 12th Senatorial District of the State of Missouri. The 12th Senate District is comprised of 16, mostly rural counties, in the far Northwest corner of our state. Among these 16 counties are Atchison, Holt and Carroll counties which border the Missouri River.

As you might imagine, the rural makeup of the area I represent relies heavily upon the agriculture economy to sustain our economic viability. As a farmer myself, I understand firsthand just how damaging the proposals being discussed for changing the management of the Missouri River would be for our state's economy. My constituents and I are concerned about several specific components of the proposals being promoted by the U.S. Fish and Wildlife Service and under consideration by the Corps of Engineers.

We in Missouri are opposed to the higher reservoir levels being proposed for the Upper Basin Lakes. Reducing the amount of water provided to the lower basin states like Missouri will have a dramatic negative impact on irrigation, navigation, drinking water systems and electric utility operations.

The current plan has worked so well that the Upper Basin lakes now boast about an $87 million recreation industry. If it works this well, then there should be no reason for the Corps to change course and damage the economy of the lower basin states like Missouri. We rely upon the current master manual and the water flows it supports on the Missouri River to maintain our barge operations which serve as a check against monopoly style shipping rates and keep the delicate balance intact which has served the entire basin well for decades.

Nav 42, 6, 8

We in Missouri are opposed to a spring rise that will inevitably result in more flooding, more interior drainage problems, and more risk for those who live and work some of the best farm ground our state has to offer. The proposals being pushed by the U.S. Fish and Wildlife Service upon the Corps of Engineers could raise river levels in St. Joseph on average 4.4 feet higher roughly once every three years. It takes 10-11 days for the releases from Gavins Point Dam in Iowa to make their way down river to St. Louis. Since there is no way that the Corps of Engineers can accurately predict the weather over the course of a 10-11 day span, these higher river levels will increase the risk to life and limb and increase the risk of millions of dollars in additional flood damage.

FC 8
IntD 8
GW 7

We in Missouri are opposed to proposals that would reduce summer river flows creating in effect a split navigation season. This aspect of the proposals would strike a deathblow to river navigation on the Missouri River and throw our state's already troubled

Nav 12, 23, 72

Testimony of Senator David Klindt
November 1, 2001
Page Two

transportation system further out of balance. While some unreasonable environmentalists may argue that ending navigation on the Missouri River is the appropriate environmental policy, I would argue that the opposite is true. Ending navigation on the Missouri River would result in serious harm to the environment.

Taking away the environmentally friendly and efficient waterborne system of shipping our products to market would put hundreds, if not thousands of additional trucks on our state's crumbling highways and likewise many more rail cars on our overburdened rail system. It wasn't too long ago that the rail carriers couldn't meet the demand of a bin busting harvest even when the option of barge transportation was still available to meet the increased demand of a highly productive crop year. If the Corps follows through with a plan that ends navigation on the Missouri River, these problems are going to get much worse.

We should be talking about making every effort to improve our navigation system so that the burden on other forms of transportation is lessened, not increased. There is no doubt river navigation is among the least polluting and least expensive forms of transportation in most parts of Missouri and the middle United States. As such, we should promote navigation as the common sense environmentally friendly mode of transportation that it really is.

Nav 23

One new wrinkle among the Corps' current proposals for changing the operating plan for the Missouri River is the idea of adaptive management. In my humble opinion, "adaptive management" is a way for the Corps to get around what they deem as the pesky Missourians in the lower river basin. In effect, this new policy would give Federal biologists in conjunction with the Corps cart blanche to change any operating procedures they deem necessary. We in Missouri oppose this idea as well.

Other 3, 10

As a farmer who has relied upon the land to earn a living, I am committed to maintaining a healthy environment and conserving the natural resources that surround us. I am supportive of efforts to restore native habitat for species in need of assistance, but there has to be some common sense in place when making decisions that place men, women, and children and their livelihoods in jeopardy.

In the midst of the reams of information produced over the last 7 years, what the Fish and Wildlife Service is pushing the Corps to consider really boils down to the creation of only 164 acres in net new habitat for the piping plover and the least tern. 164 acres. Is the Corps' actually expected to go along with a proposal to create 164 acres of new bird habitat while putting at risk over 1.4 million acres of prime farmland?

EnSp 17

Testimony of Senator David Klindt
November 1, 2001
Page Three

Comparing this measly 164 acres against the Corps mitigation program that has resulted in the restoration of thousands of acres of wildlife habitat shows just how ridiculous the Fish and Wildlife Service position really is. There is no rational need to implement the radical plans of the Fish and Wildlife Service which would devastate agriculture and navigation when the Corps' current program for redeveloping habitat along the Missouri River is more successful in restoring thousands of acres of land. In addition, this program has broad support throughout the Missouri River Valley including the Missouri Congressional Delegation.

Other 70, 79

Soon, our state and our nation will be celebrating the 200th anniversary of the Corps of Discovery. I am sure that our friends in the environmental community will attempt to use this occasion to rewrite the history books once again. However, before we begin to ponder what life was like back in 1804, let us remember that there was one overriding mission and purpose set forth by President Thomas Jefferson for Captain Meriwether Lewis and his Corps of Discovery. President Jefferson's primary concern was the discovery of whether there existed an all-water route from the Mississippi River to the Pacific Ocean for the future development of commerce and trade in America's new territory to the west.

Well ladies and gentlemen, I am happy to report nearly 200 years later that while an all-water route may not exist all the way to the Pacific Ocean, we have enjoyed the use of a viable all-water route from the Gulf of Mexico all the way to ports in the states of Nebraska and Iowa for decades. To implement any of the proposals which would do away with this vital national resource would fly in the face of long-standing United States policy in place since President Thomas Jefferson's orders delivered to Captain Meriwether Lewis nearly two centuries ago.

Nav 79

I implore the U.S. Army Corps of Engineers to let history be their guide as they decide whether President Jefferson's priorities are still worth following today.

LAFARGE NORTH AMERICA

Revised EIS for the Missouri River Master Water Control Manual
November 1, 2001 Public Meeting
St. Joseph, Missouri

Good evening, my name is Steve Kidwell. I work for Lafarge North America Inc. We are a worldwide leader in supplying construction materials, most notably Portland cement, concrete, aggregates, wallboard, and roofing tiles. Lafarge is strongly committed to producing high quality products safely and responsibly.

I work at the cement plant in Sugar Creek, Missouri. Our facility and property lie on the south bank of the Missouri River just east of Kansas City, Missouri. I manage all the environmental and public affairs at our location there.

Cement manufacturing has existing at this location long before Lafarge acquired the facility in 1991. In fact our property has supported limestone mining and cement manufacturing since 1907. The river has been used for raw material, fuel, or product transportation since the beginning.

Lafarge is investing heavily in this location. To meet increased demand, we are nearing the completion of a $200,000,000 project to nearly double our annual cement production capability. Lafarge has also recently invested over $300,000 in the barges used to transport cement to Omaha, Nebraska.

River transportation remains a vital link in our supply chain and the most cost effective, safe, and, environmentally friendly form of transportation that we can employ in our region.

As a specific example, next year Lafarge anticipates shipping up to 79 barge loads of cement to our customers. This same amount of material would require over 4000 tractor-trailers, create additional safety and noise concerns for our cities and highways, and consume 3-4 times the amount of fuel resulting increased air emissions.

Nav 23

These are significant environmental and quality of life impacts. And yet, I haven't even included the impact of receiving raw materials or fuels by barge.

River transit also serves to keep rail and truck transportation rates more competitive, and that is good for all industries.

(OVER)

~~Utilizing the current Master Water Control Manual allows for enough time in the navigation season to ship enough tons of cement to meet the consumer demand. In summary, Lafarge's supports any alternative that does not result in a split navigation season or significant reduction in the length of the navigation season.~~

Lafarge North America Inc.
2200 Courtney Road; Sugar Creek, MO 64050
Office: (816) 257-3600 Fax: (816) 257-2116

In conclusion.

Lafarge wants to maintain the ability to ship & receive materials by barge. We believe the Mo. River provides the most cost effective, safe, and environmentally sound way to do this.

Lafarge supports any alternative that avoids a split navigation season or significant reduction in the length of the navigation season.

Other 7, 79

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November 1, 2001

TESTIMONY:

ST. JOSEPH, MISSOURI PUBLIC HEARING
REVISED DRAFT ENVIRONMENTAL IMPACT STATEMENT
MASTER WATER CONTROL MANUAL
MISSOURI RIVER
REVIEW AND UPDATE
UNITED STATES ARMY CORPS OF ENGINEERS
NORTHWEST DIVISION
COLONEL DAVID A. FASTABEND, COMMANDER

Good evening. My name is Tom Waters. I serve as Chairman of the Missouri Levee and Drainage District Association. Our Association consists of levee districts, drainage districts, businesses and individuals affected by the Missouri River and its tributaries.

Colonel Fastabend, in October of 1994, I stood before Colonel Michael Thuss, then Commander of the Missouri River Division of the U.S. Army Corps of Engineers, and presented testimony on the Draft Environmental Impact Study for the Missouri River Master Water Control Manual. Tonight, I am here to once again voice my disappointment in the alternatives the Corps of Engineers has presented for public comment.

I have with me, copies of the testimony I presented in 1994 and ask they be added to the record of this hearing. You may ask why I am requesting to have testimony that is seven years old added to the record. The answer is simple. The same testimony I presented in 1994 outlines the same feelings I have tonight. You see Colonel; despite seven years of debates, meetings, studies, comment periods, workshops and millions of the taxpayers dollars being spent, not much has changed.

Farmers are still facing alternatives containing a spring rise and low summer flows. I am submitting my 1994 testimony because the Corps did not hear clearly in1994, when farmer after farmer stood up and told Colonel Thuss that a spring rise would increase the risk of flooding and hinder their ability to plant and raise crops. The corps did not clearly understand when hundreds of people told Colonel Thuss their livelihoods would be damaged and in some cases completely destroyed if the preferred alternative were implemented.

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It is apparent to me the corps did not clearly understand because the alternatives proposed in the Revised Draft EIS contain the same spring rise and low summer flows. What is even worse is the new versions of proposed plans contain even higher spring rises. No Colonel, if the Corps would have been listening to the people who live and work along the river, I believe the revised draft EIS would have been dramatically different.

The original authorized purposes of the flood control and navigation project should have been weighed accordingly with their value to the people the reservoir system serves and protects. Instead, flood control, agriculture, navigation, municipal water supply and many of the other important economic beneficiaries of the system have been pushed aside to promote an environmental agenda. The United States Fish and Wildlife Service issued a biological opinion filled with flawed science, theories and guesses about how changes in flows might benefit the threatened and endangered species found in the river. Meanwhile, biologist and those studying the river and its species admit to not knowing if the changes in flow will bring about the desired results. Their desire to turn the Missouri River into a 2,341-mile long science experiment is not shared by those of us whose lives will be most affected.

EnSp 17,4

Colonel, I will continue to oppose any plan presented by the Corps of Engineers calling for increases in spring flows above those in the current plan or summer flows which would bring about a split navigation season and an end to navigation on the Missouri River. Therefore, of the alternatives presented in the Revised Draft Environmental Impact Statement, the only alternative I can support is the Current Water Control Plan without the incorporation of the adaptive management strategy. I urge you to stop the wasteful spending of the taxpayer's money on this process and recommend the Corps continue to use the plan, which has served our country well for over sixty years.

Nav 12

Other 6

As I read through the summary of the Revised Draft EIS, I could clearly see, more than ever, my farm and livelihood are threatened. Now is the time for you to seriously consider the economic impacts of your decision. Will the federal government continue to keep its commitment of flood protection to the communities along the river? Will farmers be allowed to continue to produce food in some of the nations most fertile lands found along the river? Will the river continue to be a source of power production and water supply for millions of homes? Will the river continue as source of transportation linking the middle United States to the rest of the world? Or will all this be thrown aside to allow biologist and radical environmentalist to conduct a biological experiment based on nothing more than theories and the eagerness to control the Missouri River?

FC 6

Colonel, I take pride in producing food for a growing population of Americans. The Missouri River bottomlands contain some of the finest farmland in the world and I will continue to strive to keep the land I farm productive. In keeping with this goal, I will continue to voice my opinions relating to the management of the Missouri River and look forward to standing before you again in the coming days. Thank you.

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OCTOBER 3, 1994

TESTIMONY:

KANSAS CITY, MISSOURI PUBLIC HEARING
DRAFT ENVIRONMENTAL IMPACT STATEMENT
MASTER WATER CONTROL MANUAL
MISSOURI RIVER
REVIEW AND UPDATE
UNITED STATES ARMY CORPS OF ENGINEERS
MISSOURI RIVER DIVISION

Good evening. My name is Tom Waters. As Secretary of the Missouri Levee and Drainage District Association, I represent levee and drainage districts along the Missouri River and its tributaries across the State of Missouri. Our organization is opposed to the recommended changes in the Master Water Control Manual and disappointed in the Corps of Engineers willingness to sacrifice the flood control and navigation uses of the mainstem reservoir system in order to improve the fishing and recreation industries in the Upper Missouri River Basin.

With the release of the Draft Environmental Impact Statement of the Missouri River Master Water Control Manual, the Corps of Engineer's Missouri River Division has completed one of the first steps of the difficult and long process of reviewing and updating the operation of the Missouri River Mainstem Reservoir System. Those working on the review and update should pay close attention to all sides of the many complicated issues involving changes in the mainstem system. The Corps actions will ultimately effect thousands of lives and businesses along the entire river system.

My comments are meant to help the Missouri River Division of the Corps of Engineers complete their study of the mainstem system and emphasize points which are important to the levee & drainage districts along the Missouri River and its tributaries. I hope the comments will be useful and taken into consideration by the Corps and those who will be making decisions which will have a great impact on those living and working in the floodplains of the Missouri River and its tributaries.

1

The Missouri River System is no longer a "natural" river system. Developments over the last 150 plus years have slowly changed the system. As human lifestyles have evolved, man has used his ability to improve the river system and has enhanced the useful benefits of the Missouri River.

Cities have grown along the Missouri River and tributaries increasing the runoff of rainwater and the speed of water entering the river system. Each time a housing neighborhood developed, a parking lot or street was paved, and land was covered causing water to runoff faster, the river's natural flow pattern was changed.

As development continues, not only in the floodplain but in upland areas as well, the river system changes. The river continues to become faster and carry more water. This is not "natural" and is a fact we must face and deal with. To create "natural" river flows, the flows into the system must be natural. This is no longer possible because much of the water entering the system would have naturally soaked into the soil before reaching the river or been slowed by the natural ground cover.

It is not practical to destroy the development which has changed the river. The United States government has recognized the increased river flow and uses dams, channelization, and other structural and non-structural methods to control the river flow. These developments caused the river to become even more unnatural but extremely useful for navigation, hydropower, water supply, irrigation, and recreation.

The Missouri River Division and the United States government should keep its original goal of maintaining the mainstem reservoirs as flood control and navigation projects to help compensate for the development of man's lifestyle which increases flows into the river and continues to increase the threat of flooding for those downstream.

Increased river levels in the spring keep land near the river wet when farmers need to be preparing the soil and planting their crop. The capillary action of the ground water from a high river pulls water up into soil which normally would be dry in the spring. Drainage outlet pipes need to be open in the spring to help drain water from the normal spring rainy season. A high river in the spring could cause the outlet flood gate to be covered and hold back water which would normally be released into the river. This process would increase the risk of flash-flooding and keep land covered with water longer following heavy spring rains.

Flash-flooding on smaller tributary rivers is already a problem in many areas. Higher Missouri River levels weaken the tributaries' ability to carry

2

water away from high risk flash-flood areas. The Missouri River Division needs to better identify how the changes in the Master Water Control Manual will effect Missouri River tributaries and the farmland in the floodplain. Changes in the river flow effect thousands of acres of land several miles in either direction from the river itself. These consequences need to be recognized by all parties involved in the decisions regarding the Missouri River flows.

There are many acres of wetlands located away from the banks of the river which are greatly effected by the river. Ponds and blue holes left by floods in the past rise and fall with the river and may be located several miles from the actual river bank. These wetland areas provide wildlife habitat and are home to a wide range of fish and wildlife. The Corps study should include these areas, located away from the river and protected by levees, when calculating the wetlands and riparian habitats of the Missouri River.

The Corps study should include nesting habitat along tributaries and possible structural alternatives which could provide habitat for the birds and other fish and wildlife along the Missouri River System. Fish and wildlife have the ability to adapt to many different alternatives. The principal function of the mainstem projects should remain flood control and navigation.

The primary environmental resource of the Missouri River System is the water. It is the water which provides the life blood of much of the Midwest. The water provides power for homes and business in the floodplain and upland areas. The water feeds the crops in the highly productive soil found in the floodplains. The water carries products to and from the Midwest as it connects the center of our country with ports throughout the world. The water is supplied to city and rural water systems for millions to drink and use in their everyday life. As one of our nations greatest natural resources, the water in the Missouri River System should be used wisely and in a manner which best serves the people of our country.

The people of United States have a valuable resource which has served as the backbone of the Midwest economy and continues to feed the nation's growth. How the Missouri River water is handled will play a great role in the future of the Midwest economy and the lives of millions of people. The changes recommended in the preferred alternative would place fish and wildlife above all other beneficiaries of the Missouri River. This is not a good plan.

The original purposes of the mainstem projects were flood control and navigation. The Corps should keep this the highest priority throughout its study. As choices are considered which would weaken the flood control system, those downstream from the mainstem reservoirs watch closely with the hope their livelihoods will be protected and not overshadowed by special interest groups willing to sacrifice human lives and jobs for the benefit of fish and wildlife.

3

The Missouri Levee and Drainage District Association is opposed to changes in the Missouri River Master Water Control Manual. The current manual has worked well for many years and should be used to continue to operate the mainstem reservoirs in a manner which will benefit all parties involved. The preferred alternative is clearly one-sided to benefit the fishing and recreation industries of the States in Upper Missouri River Basin. Downstream interest need to be better represented in the Corps study and flood control and navigation must remain the highest of all priorities when considering changes.

My comments are respectfully submitted on behalf of the Levee and Drainage Districts across the State of Missouri along the Missouri River and its tributaries. Lives and property of the people in these areas could be dramatically changed by the preferred alternative found in the Draft Environmental Impact Statement. Our voices must be heard and opinions considered.

Thank you for the opportunity to testify and best of luck as you reconsider the impacts of your study.

4

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OCTOBER 12, 1994

TESTIMONY:

ST. JOSEPH, MISSOURI PUBLIC HEARING
DRAFT ENVIRONMENTAL IMPACT STATEMENT
MASTER WATER CONTROL MANUAL
MISSOURI RIVER
REVIEW AND UPDATE
UNITED STATES ARMY CORPS OF ENGINEERS
MISSOURI RIVER DIVISION

Good evening. My name is Tom Waters. I am the Secretary for the Missouri Levee and Drainage District Association. Our association consist of levee districts, drainage districts, businesses and individuals affected by the Missouri River and its tributaries from Omaha, Nebraska to Saint Charles, Missouri.

Colonel Thuss, on October 3, I presented formal testimony in Kansas City on behalf of our Association. Tonight I would like to talk about a puzzle with many pieces which create a picture of decline and despair for millions of people effected by the Missouri and Mississippi Rivers.

The past year has been an educational experience for me as I have studied the various pieces of this large puzzle designed to, in the words of some improve and enhance our environment. I have studied reports, written comments and participated in activities which have helped me better understand an agenda which if implemented could ruin my farming business and severely hinder the agricultural industry.

I followed General Gerald Galloway and the Interagency Floodplain Management Review Committee as they studied the 1993 flood and looked for ways to lessen the federal governments risk and responsibilities in the floodplain. I am following Senate Bill 2418 better known as the Baucus Bill which would chase farmers, businesses and development out of the floodplain. The United States Fish and Wildlife Service is developing the Big Muddy Fish and Wildlife Refuge where they have identified 60,000 to 100,000 acres along the

1

Missouri River that they plan to acquire. These programs along with the Master Water Control Manual Review and Update seem to all be related to a larger agenda to convert our floodplain from a highly productive agricultural and transportation resource to a mosquito infested swamp which would destroy the local economies along the Missouri River.

Colonel, tonight we are discussing the future of the Missouri River and those who depend on it for their livelihood. Before we look too far forward I would like you to look back into the past and think about how we got where we are today.

As a sixth generation farmer, I think about my Grandfather, Great Grandfather and his fathers who helped clear the land, fight the river and turn the floodplain into some of the world's highest producing cropland. Today, I see my role as a farmer not only as a producer but as a protector. My job is to tend the soil, keep it productive and make sure it is there for my heirs just as my fathers did before me.

The States in the Upper Missouri River Basin would lead you to believe the current Master Water Control Manual plan is destroying their recreation and fishing industry. On the contrary, the recreation and fishing industry has made tremendous strides under this plan and will continue to grow without changes in the Master Water Control Manual. The Upper Basin States suffered through a drought just as the Lower Missouri River Basin States suffered the effects of flooding. In both instances the current Master Water Control Manual worked as designed. There exist a balance in the current plan which would be lost if the new changes proposed by the Corps of Engineers were to be implemented.

The Corps of Engineers could come up with a plan which would dramatically improve the barge industry or a plan which would improve the agricultural benefits of the river all at the expense of the Upper Basin States. We are not asking for this. We simply ask that the Corps keep the current plan of operations. The proposed plan is one-sided and clearly provides greater benefits to the Upper Basin at the expense of the Lower Basin. We would lose the balance and the economy of the Midwest would suffer.

Colonel you are in a unique position. The final picture of the puzzle has yet to be determined. We are asking you to send a message to your superiors, their superiors and leaders in the House, Senate, and Administration who support these plans. Put the brakes on and slow these changes. Pass the word that you will not bow to the pressures of environmental and special interest groups willing to sacrifice human lives and jobs. By dismissing the proposed Master Water Control Manual changes you can help change the puzzle from a hazy picture of policy reversal which would mean the end of the barge industry on the Missouri River and the decline of Missouri agriculture into a picture of

development, progress and growth.

Our forefathers dreamed of a river which would be a transportation link between the Midwest and the world. They worked hard to improve the river and the floodplain making it a source of food for the world. Today we must carry on their goals and keep the floodplain productive and growing. We must continue to be a forward thinking nation and strive to protect the work of our past generations.

Colonel Thuss, as new pieces of the puzzle are uncovered I will work hard to protect the economy, people, and land in the floodplain. Please do the same.

Thank you.

November 1, 2001

Oral Testimony:
St. Joseph, Missouri Public Hearing
Revised Draft Environmental Impact Statement
Missouri River Master Water Control Manual
United States Army Corps of Engineers
Northwest Division

Good evening. My name is Randy Asbury and I'm Executive Director of the Coalition to Protect the Missouri River. This coalition represents a diverse group of twenty-eight agricultural, navigational, utility, industrial and business-related entities all of which are, or represent, Missouri River stakeholders. We support responsible management of Missouri River resources and the maintenance of congressionally authorized purposes of the river including flood control and navigation. We also support habitat restoration for endangered or threatened species to the extent that it doesn't jeopardize humans or their sources of livelihood.

Floodplain farmers till some of the most productive land in the world. They also face natural risks of flooding and inland drainage problems. Too much moisture is as detrimental to crop production as too little moisture. For this reason, we are greatly concerned with the spring rise alternatives. Man-made river flows that will increase the risk of flooding or inland drainage problems along the Missouri or its tributaries are unacceptable. In today's difficult agricultural economy, farmers can't withstand man-made events that compound the natural risk inherently a part of farming. Overwhelming species benefits would have to occur for this risk to even merit review. Corps' data indicates just the opposite will transpire.

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IntD 8
GW 7

The latitude given the Corps by the adaptive management feature creates the realization that Lower Basin states must prepare for the eventuality of the highest spring rise… 20,000 cubic feet per second released from Gavins Point. This increased flow is recommended to scour vegetation from sandbars to increase nesting habitat for terns and plovers and as a spawning cue for the pallid sturgeon. Corps' analysis shows a net habitat gain of 164 acres will occur by increasing river flows to 20,000 cubic feet per second over CWCP releases and reducing summer flows to 21,000. The Missouri River watershed drains one-sixth of the United States over an eight state area and the river itself is 2,341 miles long yet the net result to sandbar acreage is miniscule. This doesn't even take into account the loss of nesting habitat resulting from the proposed higher reservoir levels recommended in the alternatives.

Other 13

EnSp 9

EnSp 20

The Fish and Wildlife Service's Biological Opinion also demands a spring rise as a spawning cue for the pallid sturgeon. On page 22 of the RDEIS Executive Summary, it states, "Corps and USFWS biologists agree that there are no data to support definition of a spawning cue that would successfully result in spawning on the Lower River." Corps' records demonstrate there's a natural spring rise on the Missouri River beginning at the mouth of the Platte River (Missouri river mile 595) and moving downstream. There's no definitive indication that pallid are naturally spawning at any greater levels where this natural spring rise occurs even though shallow water habitat is closest to ideal in this portion of the river.

EnSp 29

Corps' data shows a Gavins Point release of 20 kcfs will raise river levels in St. Joseph by 4.4 feet on average once every three years. It takes 10-11 days for any releases from Gavins Point to travel to St. Louis. The Corps admittedly doesn't have the technical capability to forecast a rain event or rain runoff. In spite of this, we're expected to trust that once an additional 4.4-foot of water flows toward St. Joe no major rain event will occur that will combine with the artificial rise to create the flood conditions or inland drainage problems that we envision. **Any** flood event is a significant event to those who experience it. And, for what reason are we asked to accept this risk…the promise of additional sandbar acreages so small that they could be created with dozers and draglines or that the pallid **might** spawn. The inadequate claims for species improvements don't justify the far-reaching risk of these proposals. It's apparent that a cost-benefit analysis of these proposals shows the threat of financial catastrophe to agricultural interests far outweighs any species' benefits.

FC 8

Statement of Robert W. Crouch
November 1, 2001

My name is Robert Crouch. I reside at 12350 Donovan Drive, St. Joseph, Missouri. I currently chair the Agribusiness Committee of the St. Joseph Area Chamber of Commerce.

I am a certified public accountant, and have an MBA degree with an emphasis in transportation finance from Indiana University. I am the managing member of Crouch Farms, LLC., a crop and livestock farm in north eastern Kansas.

I have participated in the preparation of cost studies for the Waterways Freight Bureau, and have more than 25 years experience working in transportation, agriculture and finance as a manager and consultant.

I have read the Summary Revised Draft Environmental Impact Statement, and am of the opinion that all four of the proposed alternatives fail to achieve the mandated objectives of flood control and transportation, and that the economic analyses are flawed. Other 7

Each alternative would result in higher spring and lower summer river levels than are now being experienced. The spring rise at St. Joseph would be increased between three and four feet depending upon the alternative, and there would be a loss of agricultural production due to poor interior drainage and increased flooding. The summary information indicates negligible economic losses from the exaggerated spring rises. The Iowa Farm Bureau recently performed a study of the potential impacts inside the levees in the five Iowa counties that would be directly affected by changes to the operating plan, and projected that these changes would cause a total annual economic loss to the state of Iowa of $39.7 million per year, of which $13.2 million would be the direct impact on agriculture. It is reasonable to assume that there would be a similar impact on the Nebraska side of the river, and that the losses would continue on both sides of the river all the way to St. Louis. Extrapolating from Iowa Farm Bureau's calculations would indicate a negative annual economic impact in excess of $100 million per year, rather than the negligible effects reflected in the RDEIS summary. FC 8 IntD 8 GW 7, 14

The proposed alternatives would also result in split or shortened navigation seasons with the result that commercial navigation on the Missouri River would most likely disappear. The potential negative impacts from loss of navigation appear to be minimal, but it must be remembered, that the commercial barge industry on the Missouri River has been nearly eliminated by failure to comply with the navigational requirements of the law. Nav 12

The American farmer is engaged in a competition for control of the world grain markets. Brazil is in the process of converting tens of millions of acres in the Matto Grasso and other areas to Soybean production and is competing effectively for the export markets of Japan and Asia. Because we have lower transportation costs, we still hold a competitive Nav 56

Accordingly, no logical justification exists for the increased exposure for flooding and inland drainage problems that may occur on 1.4 million acres of prime farmland. Federal agencies also can't rationalize that potentially affecting approximately 30,400 buildings worth approximately $17.6 billion to create less than 164 acres of bird habitat and a fish-spawning cue that may or may not help the pallid is reasonable and prudent. Arbitrary and capricious is a more apt description of this process. FC 6

Consequently, of the six alternatives under consideration, we must support the current water control plan as the option of choice. Agriculture should not have to labor under the burden or accept the risk of any adverse consequences resulting from proposals based on speculation and producing negligible or indefinite results. Our coalition urges the Corps to continue with the CWCP. Other 6,48

edge with respect to these markets. South America, however, is in the process of developing and improving its inland waterway transportation system while we are allowing ours to deteriorate or curtailing its use. The loss of barge transportation as an alternative means of reaching the Gulf of Mexico would cause a reduction in the value of each bushel of grain produced in the region, and if the markets were to be lost, could result in a long range loss of production for the area.

The economic benefits that would result if the River were managed in a manner that would promote barge transportation have been ignored .

Others have addressed the potential effects lowered summer River levels on the release of cooling water from electric generating plants and other facilities making thermal discharges into the river, especially during the summer months. In view of the tightness of generating capacity, the potential loss of electric power generation during peak summer periods could also have a severe negative economic impact. MoPower 1, 3

The piping plover, least tern and pallid sturgeon all exist in conditions other than those contemplated by the alternatives. If regeneration of these species is desirable, I suggest that other means of creating friendly habitat be engineered that do not require manipulation of the river levels. EnSp 28

I believe a plan can be developed that will maximize the economic potential of the river and its surroundings, while at the same time promoting effective wildlife management and enjoyable recreation. Without the benefits that effective commerce can provide, the wildlife and recreational aspects of the plans would be luxuries we can't afford.

Thank you.

Testimony provided by: Mike Smith, Plant Manager -Lake Road Generating Station
UtiliCorp United Inc./Energy One
1413 Lower Lake Road
St. Joseph, MO 64504

UtiliCorp United Inc. appreciates the opportunity to provide comments to the U.S. Army Corps of Engineers concerning the alternative operating plans for the Missouri River Master Water Control Manual. Detailed written comments will be provided at a later date.

UtiliCorp United Inc. (Energy One) respectfully requests the Corps of Engineers fully consider the impacts of the alternative operating plans on electric generating facilities that utilizes the Missouri River water in the process of generating power. Of primary concern is the impact of reduced river flow during the summer months when customer demands are at their highest. Energy One currently owns and operates the Lake Road Electric Generating facility in St. Joseph, Missouri. The largest unit at this facility, unit 4-6, utilizes the Missouri River as the sole source for once through cooling. Unit 4-6 has previously experienced forced outages when the river flow was too low to allow the facility to intake required cooling water from the Missouri River. In addition, unit 4-6 has experienced numerous occasions when generation levels had to be lowered to maintain compliance with thermal discharge limits included in the station's NPDES (National Pollutant Discharge Elimination System) permit. MoPower 1, 3

Energy One supports species habitat restoration, however we are concerned that the alternative operating plans will reduce the reliability of electric service. MoPower 1

KANSAS CITY, MISSOURI TRANSCRIPT— NOVEMBER 6, 2001

US ARMY CORPS OF ENGINEERS

NORTHWESTERN DIVISION

OMAHA, NEBRASKA

IN RE: MISSOURI RIVER STUDY

TRANSCRIPT OF PROCEEDINGS

BE IT REMEMBERED that on Tuesday, November 6, 2001, the US Army Corps of Engineers met in a Public Hearing at 7:00 p.m., at the Hilton Hotel, 112th Street, Kansas City, Missouri, at which time the above entitled cause came on for hearing before Colonel Donald R. Curtis, Hearing Officer.

A P P E A R A N C E S

CHAIRMAN: COLONEL DONALD R. CURTIS

TEAM MEMBERS: LARRY CIESLIK
ROY MCALLISTER
DOUG LATKA
PATTI LEE
ROSEMARY HARGRAVE
PAUL JOHNSON
RICHARD MOORE
JODY FARHAAT
JOHN LARANDEAU

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P R O C E E D I N G S

(Hearing commenced at 7:00 p.m.)

HEARING OFFICER: Ladies and gentlemen if I may have your attention. Welcome to the this evening's comments on the Revised Draft Missouri River Master Manual. My name's Colonel Donald Curtis, I'm commander of the Kansas City District, Corps of Engineers.

With me tonight are members of the team that prepared the Revised Draft Environmental Impact Statement and I'll call your name if you folks would please stand up and let everyone see where you're sitting or standing. Mr. Larry Ceislik. Larry, okay. Rose Hargrave, she's at the desk outside. Roy McAllister, Roy's in the back. Miss Patti Lee, at the doorway. John Larandeau. Mr. Paul Johnson. Rick Moore, time keeper. Doug Latka, in the back. And from the Western Area Power Administration, Mr. Nick Staus.

This is the ninth of fourteen sessions from Helena to New Orleans. This afternoon we conducted an open house workshop, I hope many

of you were able to stop by and study the displays, pick up handouts and talk with the staff. If you weren't, please take a few minutes this evening to visit the displays that are set up in the back of the room. Our agenda tonight will start with a short video. There's a welcome followed by a description of the projects, the features of the Revised Draft Environmental Impact Statement and the major impacts.

Now we want everyone to have a common understanding of the Revised Draft Environmental Impact Statement. Copies of the summary and handouts as well as the entire document are available at libraries and project offices through the bases. Also, you can get a copy by writing to us or off of our web sight. The addresses are available in the back of the room.

Following the video, I will give a little further description of the comment process to be used tonight and then take your comments. We'll stay as long as necessary for everyone to be heard. And with that we'll begin. Paul.

(Videotape started at 7:05 p.m., and concluded at 7:35 p.m.).

HEARING OFFICER: Paul is not a dam operator.

MR. JOHNSON: We probably wore it out.

HEARING OFFICER: Okay. We'll proceed, Paul.

This hearing will come to order. Good evening ladies and gentlemen. Again I am Colonel Donald Curtis, the Kansas City District Commander and I will be your hearing officer for tonight's session.

Our purpose this evening is to conduct a public hearing on proposed changes to the guidelines for the Missouri River mainstem system's operation.

Before I proceed, I want to go over a few of the rules for the evening. This hearing is being recorded by Mr. Thomas Roberts of Roberts and Associates. He'll be taking a verbatim testimony that will be used as the basis for the official transcript and record of this hearing. This transcript with all

1 written statements and other data will be made
2 part of the administrative record for action.
3 Persons who are interested in obtaining a copy
4 of the transcript for this session or any
5 other session may do so. Persons interested
6 in receiving a copy, please indicate this on
7 their cards available at the table at the
8 entrance. Also, if you're not on our mailing
9 list and desire to be, please indicate this on
10 the card.
11 In order to conduct an orderly hearing,
12 it is essential that I have a card from anyone
13 desiring to speak giving your name and who you
14 represent. If you desire to make a statement
15 and have not filled out a card, please raise
16 your hand and we will furnish a card to you.
17 I don't see any hands. The primary
18 purpose of tonight's session is to help ensure
19 that we have all the essential information
20 that we will need to make our decision on
21 establishing guidelines for future operations
22 of the mainstem system and that this
23 information is accurate. This is your
24 opportunity to provide us with some of that
25 information. We view this as a very important

1 opportunity for you to have influence on the
2 decision. Therefore, I'm glad to see that
3 you're here tonight.
4 I want to you remember that tonight's
5 forum is to discuss the proposed changes to
6 the operation of the Missouri River mainstem
7 system that are analyzed in the recently
8 released Revised Draft Environmental Impact
9 Statement. We should concentrate our efforts
10 this evening on issues specific to that
11 decision and should refrain from discussing
12 the Corps of Engineers in general.
13 It is my intention to give all interested
14 parties an opportunity to express their views
15 on the proposed changes freely, fully and
16 publicly. It is in the spirit of seeking full
17 disclosure and providing an opportunity for
18 you to be heard regarding the future decision
19 that we have called this hearing. Anyone
20 wishing to speak or make a statement will be
21 given a opportunity to do so.
22 The Missouri River mainstem system
23 consist of Corps of Engineers constructive and
24 operated projects so officially that makes us
25 the project proponent. However, it is our

intention that the final decision on future operational guidelines for these projects reflect a plan that considers all views of all interests, focuses on contemporary and future needs, served by the mainstem system and meets requirements established by Congress.

As hearing officer, my role and responsibility is to conduct this hearing in such a manner as to ensure full disclosure of all relevant facts bearing on the information that we currently have before us.

If information is inaccurate or incomplete, we need to know that and you can help us make that determination.

Ultimately, the final selection of a plan that provides a framework for future operations of the mainstem system will be based on benefits that may be expected to accrue from a proposed plan as well as probable negative impacts including cumulative impacts. This includes significant social economic and environmental factors. Should you desire to submit a written statement and do not have it prepared, you may send it to the U.S. Army Corps of Engineers, Northwestern

Division, 12565 West Center Road, Omaha, Nebraska, 68144-3869, Attention, Missouri River Master Manual. You may also fax your comments to area code 402-697-2504 or e-mail your comments to mastermanual@usace.army.mil. The official record for this hearing will be open until 28 February 2002. To be properly considered, your written statement must be postmarked by that date.

Before I begin taking testimony I would like to say a few words about the order and procedure that will be followed.

When we call your name, please come forward to the lectern, state your name and address and specify whether or not you're representing a group, agency or organization or if you're speaking as an individual. You will be given five minutes to complete your testimony. If you're going to read a statement, we would appreciate it if a copy will be provided to the court reporter prior to speaking so your remarks will not have to be taken down verbatim. After all statements have been made time will be allowed for any additional remarks. During the session, I may

ask questions to clarify points for my own satisfaction. Since the purpose of this public hearing is to gather information which will be used in evaluating the proposed plan or alternatives to it and since open debate between members of audience will be counterproductive to this purpose, I must insist that all comments be directed to me, the hearing officer.

With the exception of public officials or their representatives who will speak first, speakers will be given an equal opportunity to comment. Please remember speakers will be limited to five minutes and will be using a lighted timer. When the yellow light comes on, it means you have two minutes of time remaining. When the red light comes on, your five minutes are up. No portion of unused time allotted to each speaker may be transferred to another presenter. The purpose of the hearing is to permit members of public an equal opportunity to concisely present their views, information or evidence.

If we allow one speaker to stockpile all the unused time, the ultimate result may be

the hearing record will be unfairly tainted and others waiting to speak may be discouraged from doing so. I will now call the names of those who have submitted cards beginning with elected officials.

MR. MOORE: Mr. Roney.

HEARING OFFICER: Mr. Matt Roney.

(Whereupon Mr. Roney read a prepared statement, which is attached to the transcript.)

HEARING OFFICER: Thank you, Mr. Roney.

MR. MOORE: Amy Jordan Wooden.

(Whereupon Ms. Wooden read a prepared statement, which is attached to the transcript.)

HEARING OFFICER: Thank you, Ms. Wooden.

MR. MOORE: Mark Coulter.

(Whereupon Mr. Coulter read a prepared statement, which is attached to the transcript.)

HEARING OFFICER: Thank you, Mr. Coulter.

MR. MOORE: Stephen Mahfood.

MR. MAHFOOD: Good evening, Colonel, good to see you again.

I want to thank you for this opportunity, and my name is Steve Mahfood, by the way, Director of Missouri Department of Natural Resources, and I'm here representing the State of Missouri.

I want to thank you for this opportunity to share our position with you this evening. This issue is of supreme importance not only to Missouri, but to the entire nation. I want to thank you for holding the hearings in the basin and I think this is the right thing to do, allow people the time and opportunity to share how they feel about the various proposals.

As Missouri continues to evaluate the

newest data from the Corps, we will be looking to ensure that the Missouri River remains a river of many uses including recreation, agriculture, fish and wildlife conservation, navigation, water supply hydropower. Balancing these interests of both the upstream and the downstream preaches of the river is absolutely essential to what we think is achieving the goal.

Other 7

Because of the vital importance of these issues, Missouri maintains that all decisions must be based on sound science. We strongly believe that if all sides of this discussion commit themselves to adherence to solutions founded on valid scientific evaluation, that it will enable us to make substantial progress on resolving all the issues that have been debated for so many years. Contrary to many representations, Missouri is firmly committed to improving the ecological health of the Missouri River. However, we strongly believe there are ways to achieve these benefits while still protecting and enhancing the lives and livelihoods of Missourians who live on or near the banks of the Missouri River.

Other 22

Significant concern to Missourians is that many of the proposals in the Revised Draft Environmental Impact Statement include plans to increase total system storage in the upper lakes. We have apprehensions that such changes would significantly reduce the ability of the Corps to ensure that the river is managed to the benefit of all residents of the basin.

Other 7, 198

We strongly feel that the Corps must maintain adequate flexibility to respond to a wide variety of situations both anticipated and unforeseen. We believe these proposed changes to storage levels in the upper lakes would limit the Corps' capacity to perform its statutorily mandated role.

Missouri is further concerned that these changes to total system storage could eventually restrict the use of water by downstream states and thus detrimental to the future welfare of Missourians. We strongly oppose any plan that would reduce the amount of water usable and released to downstream states.

WS 11

Furthermore, and lacking the importance

of the endangered species in this discussion, Missouri also suggests that the effects of increased storage of water in the upper lakes on endangered species be examined. Comprehensive data regarding the impact of high levels of the upper lakes on endangered species is not currently available. We believe this information should be included in the dialogue.

EnSp 12

The second key component of many of the current proposals is for a variety of reduced flows from Gavins Point Dam in the summer. The flow levels and timing of the current proposals defer significantly from the historic hydrograph. Missouri recognizes that a properly timed and proportioned reduced summer flow will likely benefit some sections of the river's ecosystem. We support efforts to achieve a flow level that will help these species while also ensuring that the long-term viability of river commerce on the Missouri River is not degraded. Missouri believes that such a flow level exists.

Other 7,9

Our state has advocated the reduce flow of 41,000 cubic feet a second from Kansas City

from August 1st through September 15th. The goal of this proposal is to accomplish these flow conditions approximately three of every five years in order to balance the interest of the endangered species, recreation and the continued support of other uses of the river.

Other 142

Proposals to depart from current operations must also consider the effect of any changes on Mississippi River navigation. The entire inland waterway system depends on supplemental flows from Missouri River into the Mississippi. We do not support proposals that are detrimental to the long-term viability of navigation on Mississippi and Missouri River system.

Miss 4

Finally, any reduced summer flow alterations must be water neutral. As I said before. Missouri will strenuously oppose proposals that reduce the amount of usable water released to downstream states.

WS 11

A third key component of many of the current proposals is the periodic spring rise created by federal releases of additional water from Gavins Point Dam during May. Missouri opposes proposals for expanded spring

releases.

We have serious concerns that current proposals would increase flooding, result in higher ground water levels and cause inadequate drainage throughout the lower basin. Additional spring releases could potentially compound the effects of large rainfall events downstream of Gavins Point thereby increasing the risk of unanticipated flow levels in downstream states.

FC 8
IntD 8
GW 7

The dangers of such a spring rise increase because waters from Gavins Point Dam takes approximately 10 days to reach St. Louis. Spring flooding has had a significant negative impact on Missouri agriculture, we all know that. Missouri's agricultural community must be a top priority in this discussion. We will strive to ensure that Missouri's agricultural community not just along the Missouri River, but all through Missouri remains viable and profitable.

Such concerns must be weighed against the fact that the lower stretches of the Missouri River including the entire 553 miles in Missouri already receive a natural spring rise

EnSp 29

from tributary inflow.

This spring rise that's proposed would have little or no impact on river species living in the stretch of river within our borders of the State of Missouri.

EnSp (con't) 29

One additional issue that has occasionally been lost because of the more contentious nature of some of the other proposals is the importance of habitat improvement projects in restoring aquatic diversity lost to the creation of upstream lakes and channelization and bank stabilization over the last 50 years.

WRH 6

Other 70

Missouri believes that an active program of habitat creation, restoration augmented by alterations to late summer flows would substantially assist the recovery of endangered species. Our state has undertaken a number of habitat improvement projects often in concert with the Corps and we believe that these cost effective and noncontroversial efforts deserve significant support by the federal government.

Finally, one issue of high importance to our state which is not currently in any

proposals but has been raised at various times during this discussion is the possibility of water transfers out of the Missouri River basin. Missouri unequivocally opposes out-of-basin transfers. Such transfers constitute economic and ecological threats given existing demands for water within the basin and the need of species dependent on the river for their survival.

Nav 59

Other 172

In conclusion, Missouri is firmly committed to restoring and protecting the Missouri River and ensuring that the river is managed for all citizens. I want to reiterate the importance of basing all decisions on sound scientific data and further urge that all potential impacts and opportunities to both the Missouri and Mississippi River systems for each and every proposal be considered.

Other 7, 22
Miss 14

There comes a time in all of this where you can do things right or you can do the right thing. We're asking you to do the right thing.

Thank you for the opportunity to express our position on these extremely important

1 issues.
2 HEARING OFFICER: Thank you, Mr.
3 Mahfood.
4 MR. MOORE: Dale Frink.
5
6 (Whereupon Mr. Frink read a prepared
7 statement, which is attached to the
8 transcript.)
9
10 HEARING OFFICER: Thank you, Mr.
11 Frink.
12 MR. MOORE: Bill Bryan.
13 MR. BRYAN: My name is Bill
14 Bryan, I'm a deputy chief counsel for Missouri
15 Attorney General, Jay Nixon. Attorney General
16 Nixon asked me to be here tonight, he couldn't
17 be here, he had to sue somebody today. Nobody
18 in this room.
19 I'm glad to see we're all lightening up,
20 it looks like it's going to be a long
21 evening. And Attorney General Nixon would
22 want me to thank all of you for being here to
23 participate in this because this is democracy
24 in action so thanks for being here.
25 We have heard a lot over the years since

1 this process has started about things like a
2 permanent flood, broken promises, the
3 contemporary needs of the Missouri River
4 basin. These are all very catchy, but
5 unfortunately somewhat misleading slogans that
6 are used by the upstream states and interests
7 to justify the profound change in water policy
8 evident in the Master Manual alternatives.
9 When we think of the big mainstem reservoirs
10 we think of flood control, water supply and
11 great walleye fishing. Meanwhile, the
12 upstream states have chosen to characterize
13 this valuable windfall as a permanent flood.
14 The Corps, however, has valued the
15 recreational benefits flowing from this
16 permanent flood at more than $84 million per
17 year. That's not too shabby for a flood.
18 When it floods around here, Missourians lose
19 money, not make millions.
20 Starting with the stated value of $84.7
21 million per year, the Master Manual
22 alternatives under consideration only increase
23 the permanent flood's payoff for recreation by
24 an average of about $2.9 million per year.
25 That's only about a three and a half percent

FC 19

23

ROBERTS & ASSOCIATES BY TOM ROBERTS, RPR, CCR

FC 19 (cont.)

increase and that is less gain on average to recreation than the $3.6 million reduction in flood control benefits under the same alternatives that was described as insignificant in Corps' slide show only a few moments ago.

The net loss of one and a half million dollars, the difference between the flood control losses and recreational gains on average, doesn't seem to meet the contemporary needs of the basin to me, a Missourian.

The current water control plan provides many additional benefits to downstream states that don't even figure into this simple calculation, but the point is not so much the dollars and cents. One and a half million dollars seems like a lot of money to me, but relative to this process, it's not very much.

Other 6

This is about the fact that change purely for the sake of change doesn't make sense and isn't mandated under the National Environmental Policy Act or any other federal law. Just as we need to preserve the flood control benefits in Missouri, however, we need to protect the native fish and wildlife that

COVERING MISSOURI - ST. JOSEPH TO ST. LOUIS 1-800-633-8289

24

ROBERTS & ASSOCIATES BY TOM ROBERTS, RPR, CCR

rely on river the river, too.

WRH 6

Of course the river didn't evolve the way it has due solely to flow from Gavins Point Dam, other actions have contributed to the habitat problems we are now facing. Structural changes, for example, were made to change the train the river. These structural improvements are essential to bank stabilization and river commerce in accordance to do a better job of repairing and maintaining them. But we can also do more through smart engineering and other steps to improve the habitat along the river, and the Corps, the Fish and Wildlife Service and the State of Missouri need to take steps to improve the habitat along the river through smart engineering. By using common sense and smart engineering, we can improve the habitat and protect other uses as well and the Big Muddy can truly a river of many uses.

Other 70, 215

EnSp 29

While the Corps has relied on the U.S. Fish and Wildlife Service to identify the specific habitat attributes required to avoid jeopardy to endangered species, the resulting alternatives call for a spring rise and a low

COVERING MISSOURI - ST. JOSEPH TO ST. LOUIS 1-800-633-8289

EnSp 29

1 summer flow. But the historical records
2 reflect that the lower Missouri River here in
3 Missouri experiences a spring rise without any
4 increased release from Gavins Point.

Other 79

5 The records also reveal that there is no
6 factual basis for a summer low flow or a split
7 navigation season based on the period of
8 record, 100 year period of records that the
9 Corps has analyzed. Moreover, the value of
10 these particular changes is entirely
11 speculative and unproven.

Other 142

12 Under the circumstances, we support a
13 41,000 cubic foot per second low summer flow
14 at Kansas City from August 1st through
15 September 15th approximately every three out
16 of five years just as Mr. Mahfood pointed
17 out.

FC 8

18 We do not support a spring rise from
19 Gavins Point because given the lengthy travel
20 time from Gavins Point to St. Charles and
21 weather forecasting uncertainties would make
22 flooding more likely here in Missouri. But
23 again, the point is not so much the Master
24 Manual alternatives are good or bad, but that
25 they are unproven, and change purely for the

1 sake of change doesn't make sense.
2 We intend to submit comprehensive written
3 comments before the close of the comment
4 period and we are pleased that the Corps has
5 decided to consider and hold additional
6 hearings before the end of the comment period
7 once the public has had an opportunity to more
8 thoroughly review the data that has been
9 provided, and we will continue to be engaged
10 in this important process and would welcome
11 any opportunity to discuss the various
12 alternatives or further relate our comments
13 with you, your staff or with Colonel
14 Fastabend.
15 Thank you for this opportunity this
16 evening.
17 HEARING OFFICER: Thank you, Mr.
18 Bryan.
19 MR. MOORE: Tad Kardis.
20 MR. KARDIS: Good evening,
21 Colonel, thanks again for the opportunity to
22 participate in this process.
23 My name is Tad Kardis, Missouri Attorney
24 General Jay Nixon's office. I'd like to speak
25 to you tonight about two important issues,

electric power, future of public participation.

This process is, in part, an exchange of information. The Corps provides the public with information and the public has an opportunity to share its reaction to that information with the Corps. The value of public comment is dependent upon the quality of information that's given to digest.

In St. Joseph last week I stood before Colonel Fastabend and gave him an example of how the Corps failed to provide the public with understandable information about the alternative effects on power plants that depend on Missouri River water for cooling and discharging heated water.

Using nothing but the Corps' own numbers provided in the RDEIS summary, we translated the Corps' figures from the language of megawatt hours into the language of dollars. Now the Corps has provided us with more information, the full RDEIS, some five inches of printed material. With the permission of the northwest division staff, we took your display copy home with us from St. Joseph. It

MoPower 1, 3

contains more detail than the summary, but the numbers just don't add up even when you account for the use of yet another language, ecowatt hours.

The summary and the Corps RDEIS give different answers. As lawyers we would say that the summary is a prior and inconsistent statement. As representatives of Missourians, we simply ask which document should we believe about the impact of the alternatives on thermal energy.

MoPower 1, 3, 7

One methodology would suggest that this impact to be as high as $15 billion. We had hoped for a more detailed analysis in the Corps RDEIS. However, the Corps' analysis assumes that these 25 power plants will simply decrease power production to avoid violating their permits. Would it not be logical to presume that they will try to retrofit their facilities? What will that cost? Will those costs be passed along to electric rate payers? Can the power plants finish the retrofit before the first summer low? What if they choose to violate their MPTS permits as a cost of doing business? We hope not.

Well, what affect would that have on Missouri River fish and wildlife? The Corps has not provided answers to these questions or given us enough information to answer them for ourselves. Missourians need this information to participate in these process in a meaningful way.

EnSp 7

Indeed the process itself is valuable and the people in this room are all here because they see this process as a valuable one. The National Environmental Policy Act or NEPA requires federal agencies to prepare an Environmental Impact Statement regarding major federal actions significantly affecting the quality of the environment. Truly a change in the management of the Missouri River is a major federal action.

Our nation's courts held that federal agencies should not make these decisions from behind a veil of secrecy, they must give the public notice of the proposed major federal action and give the public an opportunity to submit relevant information that might have a bearing upon the agency's decision.

The Corps has accepted this

responsibility by preparing the Revised Draft Environmental Impact Statement for potential revisions to the Master Manual and engaging in this process that includes public hearings like the one tonight, yet the Corps seems to be growing weary of this process.

It describes its Master Manual revision as a journey that began in 1989. However, the Corps sees a way to end the journey. Its name is adaptive management and all the Master Manual alternatives included. In fact, for some reason, the Corps' publications leave the distinct impression that the Corps thinks it is employing adaptive management already.

Other 77

One can try to define adaptive management, but it is difficult. It is impossible, however, to define with any certainty what will result from adaptive management. With adaptive management, the Corps will be able to test hypotheses and explore changes in the operation of the Missouri River system. Indeed its language is the language of uncertainty with jargon-like flexibility, adapt, operational changes, on average, and as conditions allow. In one

1 word, vague.
2 The Corps envisions future management of
3 the river under this new scheme with an agency
4 coordination team made up of primarily federal
5 biologists. In other words, the United States
6 Fish and Wildlife Service. Will these
7 decisions be subject to public participation,
8 peer review and judicial review? If they will
9 not, that course will surely violate NEPA.
10 With all this flexibility, we wonder if any of
11 us will ever have this opportunity to
12 participate in this public process again.

Other 10

13 The 2002 Master Manual may be the last
14 Master Manual. In the future, if the Corps
15 can simply make operational changes as new
16 information becomes available, they may not
17 want to embark on this journey once more.
18 Instead of venturing forth on a new journey,
19 they will river management decisions that
20 affect us here in Missouri from behind closed
21 doors.

Other 3,10

22 The alternative to adaptive management is
23 this important process we are currently
24 participating in. What does it have to
25 offer? Only certainty, openness, fairness,

1 accountability and predictability. Thank you,
2 Colonel.
3 HEARING OFFICER: Thank you, Mr.
4 Kardis.
5 MR. MOORE: Nelson Heil.
6 MR. HEIL: If I could, I'd like
7 to read this and then give you the paper, this
8 is the only copy I have tonight.
9 This is a copy of a letter that we have
10 sent in on October 29th to the Corps, and I'm
11 the southern commissioner of Carroll County
12 and I represent David Martin, the eastern
13 commissioner and Donald Batrim (phonetic), a
14 western commissioner.
15 The Carroll County Commission does hereby
16 go on record as being in opposition to the
17 spring rise low summer and fall rise which is
18 the split season for the following reasons.

Other 13,79

19 Number one, the increased releases most
20 surely will put water against levees
21 regardless of normal runoff below Gavins
22 Point. And number two, the seep water from
23 this high river will prevent many fields from
24 being planted.

FC 8
GW 7

25 Thank you for your time.

HEARING OFFICER: Thank you, Mr. Heil.

MR. MOORE: Tim Brinker.

MR. BRINKER: Good evening, Colonel, ladies and gentlemen, my name's Tim Brinker, I'm a lowly city councilman from a little town called Washington, Missouri. I have been a councilman for eight years, unfortunately, I don't have staff so that I can have somebody come up here and speak for me so I've got to do that myself.

I also happen to be chairman of the Washington, Missouri Riverfront Preservation and Improvement Committee. That's an advisory committee utilized to do just as our title indicates, preserve and improve our Missouri River frontage.

Washington, Missouri enjoys being the busiest port/access on the Missouri River between St. Louis, Missouri and Omaha, Nebraska. That relates to anywhere from 100 to 300 boats per weekend in season. We're located at mile marker 65 to 70 if you want to come visit us.

Rec 10, 27

Washington is primarily a recreational

use community, but also has commercial uses as well on the river via a sand plant and concrete manufacturing facility in Franklin County concrete.

Washington has a riverfront park that we're extremely proud of consisting of many pavilions, acres of grass, large parking areas, a four-lane boat ramp and a new four-slip courtesy dock, many, many private docks as well as a brand new half million-dollar riverfront trail that stretches 2.7 miles along the Mighty Muddy Mo.

We're also considering another very substantial investment in a full-service still water marina, perhaps one of the largest in the span I mentioned earlier.

Rec 27

Washington is concerned about water level consistency so as to protect and potentially enhance what we consider to be our community crown jewel.

I wish to make it known that our concerns are very real. Like a lot of other communities along the Missouri River, Washington has been adversely affected in the past by floods typically occurring in late

spring or early summer, coincidentally, the similar time span that the plans indicate higher volume releases. We ask that the Corps please take into consideration this very strongly and take action to assure this consistency is achieved and maintained.

FC 8

The City of Washington has always enjoyed a positive working relationship with all agencies represented here this evening and looks forward to continued positive relations.

Thank you and have a good one.

HEARING OFFICER: Thank you, Mr. Brinker.

MR. MOORE: John Reddy.

(Whereupon Mr. Reddy read a prepared statement, which is attached to the transcript.)

HEARING OFFICER: Thank you, Mr. Reddy.

MR. MOORE: Charles Scott.

(Whereupon Mr. Scott read a prepared statement, which is attached to the transcript.)

HEARING OFFICER: Thank you, Mr. Scott.

MR. MOORE: Rick Hayes.

MR. HAYES: Good evening, my name's Rick Hayes, I'm a representative from the Brunswick/Dalton Drainage District. I live and farm near the Missouri River and the Grand and the Chariton. I farm land that my dad has farmed for years and that's where our living is. I'm representing our district and also many farmers.

Our livelihood is farming this land. If the river that you're wanting the spring rise on, that's our most critical time getting our crops planted. We need a normal to below normal river stage for our land to drain. We cannot, we just cannot accept anything less than that. You want this rise and you're trying to save this fish, I mean, we're out here trying to make a living. We just can't uproot our families and move them a hundred

FC 8
IntD 8
GW 7

1 miles away from the river, we just cannot do
2 that, you know, in our type of farming.
3 We just wanted you to know that we
4 understand all the pressures you have, wanting
5 to you do something besides what you have
6 always done. We think you've done a good job
7 in the past, but we'd like more. I want to
8 stress we cannot take any less than we have
9 already have.
10 Thank you.
11 HEARING OFFICER: Thank you, Mr.
12 Hayes.
13 MR. MOORE: Ellen Duke.
14 MS. DUKE: Good evening, my name
15 is Ellen Duke, I live in Lee's Summit,
16 Missouri and I'm speaking tonight as a private
17 citizen.
18 I grew up on a farm in Indiana so I know
19 the importance of nature and I know the
20 importance of watching what the river
21 naturally does. So I am speaking in support
22 of flexible flow. I think it's very important
23 to pay attention to what nature provides, not
24 just what human beings provide. So with this
25 in mind, I've carefully read the U.S. Fish and

Other A

1 Wildlife Service proposals for flexible flow
2 and I believe it is totally worthy of our
3 action, and I appreciate your consideration
4 tonight.
5 HEARING OFFICER: Thank you, Miss
6 Duke.
7 MR. MOORE: Roger Clark.
8 UNIDENTIFIED VOICE: He stepped
9 to the restroom.
10 HEARING OFFICER: We'll catch him
11 in a minute.
12 MR. MOORE: Michael Wilson.
13 MR. WILSON: Good evening. I'm
14 Michael Wilson, I live in Raytown, Missouri
15 I'm a member of the Sierra Club and I'm
16 representing the Missouri River.
17 I've been around a long time, a lot
18 longer than anybody sitting here tonight.
19 I've been flowing down through this land that
20 isn't -- wasn't called Missouri for a long
21 time and so when we say we're representing
22 Missouri, we're not really representing the
23 land or me, this river called the Missouri
24 now.
25 I'm going to keep on flowing and a long

Other A

time after everybody in this room is gone. And I would like to be healthy and I would like to be alive. I would like to bring a real future for the people who inhabit this land in the future.

I'm really thankful that the U.S. Army Corps of Engineers has come on the scene to take up my cause, because you're representing a much bigger picture than the State of Missouri, you're representing me, the Missouri River.

As I look at one of the fact sheets, one of the senators mentioned common sense. I'm not sure what that means in their context, but just from an economic point of view, national economic point of view, the proposal that is advocated by the State of Missouri and the senators that have testified has the lowest economic value. So from what I think is common sense, flexible flow which comes much more closer to what I've always done before and would like to do in the future works best for me. It works best for the future, it works best for your children. It's not about private property. I've been flowing long

Other 7, A

before there was any private property. It's too bad that it prevents people from adjusting to the flow, but I've always had flexible flow. That's natural and it's healthy.

HEARING OFFICER: Thank you, Mr. Wilson.

MR. MOORE: Ronald McNeall.

MR. McNEALL: Good evening. My name is Ronald McNeall and I'm an agriculture producer from Chariton County near Keytesville, Missouri, I produce corn, soybeans and wheat.

These meetings are seeming to become a regular ritual as we were only a short time ago doing the same thing again. I'm here tonight representing the Missouri Corn Growers Association of which I am a member of the Board of Directors.

MCGA is a grass root organization representing corn growers across Missouri. MCGA will continue to support the current water control plan, because it is the only feasible alternative presented by the Corps of Engineers. All of the other alternatives that are being presented would be absolutely

Other 6

1 devastating to agriculture.
2 We are opposed to higher reservoir levels
3 in the upper basin lakes. Increased reservoir
4 levels reduce the water available and flood
5 control available to the lower basins.
6 Managing the Missouri River flow based on
7 the need of upstream recreational and other
8 interests goes against the original intent of
9 Congress to manage the river for multiple
10 interests where flood control and navigation
11 was the primary intent.
12 We're also adamantly opposed to what is
13 referred to as the spring rise. First,
14 increasing water releases would flood or
15 decrease drainage on thousands of acres in the
16 Missouri River bottoms. The Corps and the
17 Fish and Wildlife Service claims they can
18 curtail water releases from Gavins Point Dam
19 if downstream flooding occurs. I would like
20 to know how such a claim can be made when
21 professional weather forecasters can't even
22 accurately forecast rain one day at a time let
23 alone the amount that will fall within a given
24 area. On top of that, it takes from eight to
25 eleven days for water to travel from Gavins

WS 11

Other 6

FC 8

1 Point to the mouth of the Missouri to St.
2 Louis.
3 Once water is released from Gavins Point,
4 it cannot be stopped or it cannot be
5 recalled. Therefore, this proposed control
6 flood would be devastating not only for
7 potential flooding, but also to late planting
8 due to internal drainage problems. Everyone
9 knows the spring period is the normal time for
10 excessive rainfall.
11 I farm on the Chariton River about six
12 miles where it empties into the Missouri
13 River. Our internal drainage is blocked not
14 only when the river is bank full, but also
15 when the Missouri level is raised four to six
16 feet above normal. When we go through a long
17 period of high water flow with several rain
18 fronts moving through, it spells internal
19 flooding problems. Two weeks of flood gates
20 closed in April and May can be disastrous.
21 It is also proposed that these increased
22 spring flows would be offset in the late
23 summer by a split navigation season. During
24 July through September water releases would
25 fall below levels needed to maintain

FC 8 (cont.)

IntD 8

navigation. This would end navigation on the Missouri River. We hear reports of reduced navigation on the river now, but who is going to commit to long-term navigation when we keep navigation in doubt.

Nav 12

As you know, barges are a low cost transportation alternative for agriculture, commodities and inputs. As important, barge transportation places competitive pressure on reasonable rail rates. Railroads can only raise rates to the point where they start to push traffic onto alternative modes of transportation, for example, barges.

Nav 7, 8, 6

It has been demonstrated many times that in areas throughout the country that do not have access to barge transportation, rail rates are higher. In their analysis, the Corps estimates that barge competition reduces the rail rates in the Missouri basin by up to $200 million annually. The importance of barge competition is further heightened as the rail industry continues to consolidate.

The Missouri River is also a major source of water for the Mississippi River. During the drought of 1988, the Missouri River

Miss 4

discharge accounted for 63 percent of the water flowing past St. Louis from July through October. If planned flow reduction by the Corps would coincide with another drought, navigation on the upper Mississippi would be interrupted costing the nation's farmers and industries millions of dollars a day.

Miss 4 (cont.)

Thank you.

HEARING OFFICER: Thank you, Mr. McNeall.

MR. MOORE: Roger Clark.

MR. CLARK: Good evening, thank you for the opportunity to speak. I represent recreational interests and it seems to me the good Lord managed this river for million of years before the Corps of Engineers came along. What we have now does not even resemble what once was, and in 1993 it was proven beyond a doubt that current technology and the ability of the Corps to manage this river is simply is not there to the extent that you might like to have it.

What we have now is something that is really not very friendly to recreational users, and it's a tragedy. The reason it's a

Rec 27

tragedy is because navigation interests, other economic interests have taken highest priority. It is not only three endangered species, it's million of water foul that use this river during their fall migration and their spring migration. They have no place to use on that river to any extent anymore. That is an American tragedy and it's happening right here on this river.

Thank you.

HEARING OFFICER: Thank you, Mr. Clark.

MR. MOORE: Steve Kidwell.

(Whereupon Mr. Kidwell read a prepared statement, which is attached to the transcript.)

HEARING OFFICER: Thank you, Mr. Kidwell.

MR. MOORE: Lanny Meng.

(Whereupon Mr. Meng read a prepared statement, which is attached to the transcript.)

HEARING OFFICER: Thank you, Mr. Meng.

MR. MOORE: Steve Ewert.

MR. EWERT: My name is Steve Ewert and I'm a Missouri River bottom farmer, and my brothers are here and a lot of my friends are here, and I want to thank the Corps of Engineers for what they've done for the river over the last decades.

It's been said tonight that we can't control the river, that we've diminished the worth of the river by the fact that we have controlled it. I don't think anything could be further from the truth. If you read accounts of the Missouri River by Mark Twain or some of the people that wrote about it in the early days, the Missouri River was a worthless stream. It could not be depended on for water, it could not be depended on for navigation, it flooded, it went dry, and we've had whole industries grow up around this river.

Other 25

Every 50 miles up and down the Missouri there's a power plant, we heard from those

MoPower 5

guys tonight. They've got to have a stable river. I'm just a small piece of the industry. I farm on the Missouri River and I need a stable river, too, in the spring.

FC 8
IntD 8

I take umbrage with some of your numbers in your study when you point out that there would be a few million dollars worth of damage to Missouri crops and the alternatives that raise the river level, and I just do that by common sense. I'm not a scientist and I'm not an accountant, but I know what it costs me when the river is three feet higher than my flood gates and I have to pump the water out or I lose a crop of soybeans and I have to replant it. And I think if you multiply that by thousands of times up and down the river by people that are in the same boat I am, that a few million dollars wouldn't come close to covering the economic damage of a three foot rise in the river at the wrong time.

The other thing I think, you've tried to apply common sense to some of these things and I really kind of think the pallid sturgeon is a red herring of some sort, because I've been on the river for 20 years now and I fail to

understand what an artificially created three foot rise that the Corps would create, what benefit that would be to the pallid sturgeon that mother nature does not already provide.

EnSp 29

Living on the river and being so concerned with river levels, when a thunder storm comes through upstream somewhere, I see rises and falls of five, ten, fifteen feet all the time. Now, this three foot rise, it's three feet of Kansas City, I think, is what the 15 to 20,000 cubic feet per second would make. I don't see what the difference is between that three foot artificial rise and the ten foot or five foot or three foot rise provided by a thunder storm, and that happens real regularly every spring. And I think it's kind of presumptuous of us to think that we can create a three foot rise that's going to be a benefit that mother nature is not already doing by letting it rain.

That's just kind of a common sense observation. Like I said, it's not from a scientist or anything, but it just seems to me that water is water and -- whether it came from Gavins Point, and I think most of the

1 people here are concerned what happens at
2 Gavins Point.
3 If there needs to be some unbalancing of
4 the reservoirs above Gavins Point to create
5 growth along the banks, that's understandable,
6 possibly doable. But as far as most of the
7 people in this room, we're concerned about
8 what happens below Gavins Point, obviously,
9 because that's what's going to make a
10 difference to us. And I don't think that that
11 three foot rise is going to make a bit of
12 difference in the pallid sturgeon and I defy
13 somebody to tell me why that that artificial
14 rise is more beneficial than a good thunder
15 shower that raises the river five feet and
16 then drops it down five feet. I mean, that's
17 basically doing the same thing, it happens
18 every year.
19 Thank you.
20 HEARING OFFICER: Thank you, Mr.
21 Ewert.
22 MR. MOORE: Robert Vincze.
23
24 (Whereupon Mr. Vincze read a prepared
25 statement, which is attached to the

EnSp 17

1 transcript.)
2
3 HEARING OFFICER: Thank you, Mr.
4 Vincze.
5 MR. MOORE: Dan Cassidy.
6
7 (Whereupon Mr. Cassidy read a prepared
8 statement, which is attached to the
9 transcript.)
10
11 HEARING OFFICER: Thank you, Mr.
12 Cassidy.
13 MR. MOORE: Bob Sherrick.
14
15 (Whereupon Mr. Sherrick read a prepared
16 statement, which is attached to the
17 transcript.)
18
19 HEARING OFFICER: Thank you, Mr.
20 Sherrick.
21 MR. MOORE: Jeffrey McFadden.
22 MR. McFADDEN: Colonel, guests,
23 thank you for this opportunity. My name's
24 Jeffrey McFadden, I'm a lifelong Missourian,
25 grew up in this basin. I'm an independent

51

ROBERTS & ASSOCIATES BY TOM ROBERTS, RPR, CCR

1 businessman in Missouri, but I speak tonight
2 as what is commonly known as a river rat. The
3 Missouri river is the place I love most of
4 anyplace on earth.
5 What we have here is a river that's been
6 taken from the many and given to the few at
7 public expense, this is a problem. This
8 evening we've talked about flood control.
9 We've been threatened with the flood of 1993,
10 but the flood of 1993 was a summer flood which
11 occurred during a time when the Corps' current
12 water control plan maintains the river at
13 unnaturally high levels, possibly having
14 exacerbated that flood.
15 The Missouri River flooded in 1903 and in
16 1908. It flood in 1944 resulting in the
17 passing of the Pick Sloan Plan. It flooded
18 again in '51, and Colonel Pick said if this
19 plan were in place, a flood like this could
20 never happen again. It flooded in '93, right
21 on time.
22 The current water control plan has been
23 unable to even alter the cycle of major
24 floods. It has, however, eliminated the cycle
25 of small healthy floods.

FC 20

FC 21

COVERING MISSOURI - ST. JOSEPH TO ST. LOUIS 1-800-633-8289

52

ROBERTS & ASSOCIATES BY TOM ROBERTS, RPR, CCR

1 We've heard about the economy of the
2 State of Missouri. I'm sure everyone in this
3 room has been around the Lake of the Ozarks
4 and seen the bustling economy, the high
5 property values, the vast economic
6 opportunities for small businessmen, bait
7 stores, restaurants. Imagine for a moment if
8 we had the Lake of the Ozarks at Kansas City
9 and at Saint Louis, the Lake of the Ozarks at
10 Jefferson City and at Columbia. The Lake of
11 the Ozarks at St. Louis, we have it.
12 We have the Missouri River. The Missouri
13 and Mississippi Rivers in combination are the
14 State's largest water resource, larger than 15
15 of the State's largest reservoirs combined,
16 but we have taken this and we have made it
17 small and we have made it fast and it
18 frightens people and they're afraid to go use
19 it.
20 So we don't have the economic
21 opportunities of having the Lake of the Ozarks
22 at every major state. The Missouri River is
23 so vast that it could carry recreational users
24 from every city in this state and never look
25 crowded.

Other 216

Rec 27

COVERING MISSOURI - ST. JOSEPH TO ST. LOUIS 1-800-633-8289

We've heard that the recommendations are unproven and they are, because in 40 years there has been no change, there's been no attempt to prove them. In my business which I own, I maintain and repair telecommunications equipment and computer networks for Missouri businesses. I have never had one say to me I want you to prove your plan before you do something. I guarantee if Attorney General Nixon's telephone system were down and I was there to fix it, he wouldn't ask me for proof, he would ask me to do something and do it now and that's what I'm asking you.

Over 80 percent of Missouri households contain one or more fishermen. Over 90 percent of Missouri citizens live along the Missouri River, but those people can't fish that river because they are afraid of it. If the river were maintained in good health, we would be once again able to catch the 150-pound catfish that were normal here when the river was healthy last. We would have people coming to the Missouri basin from all over the country like they now go to the Gulf of Mexico to catch a fish that big. All these

Rec 10, 27

200 million dollar figures are pocket change compared to the potential recreational income a healthy Missouri River would give this basin.

Thank you.

HEARING OFFICER: Thank you, Mr. McFadden.

MR. MOORE: Frank Lies.

(Whereupon Mr. Lies read a prepared statement, which is attached to the transcript.)

HEARING OFFICER: Thank you, Mr. Lies.

MR. MOORE: Mary Lappin.

(Whereupon Ms. Lappin read a prepared statement, which is attached to the transcript.)

HEARING OFFICER: Thank you, Miss Lappin.

We've been taking testimony for two hours and thirty minutes so I think it's time for a

ten-minute break. Please be back, for those of you who want to participate, at 9:40. Thank you.

(Off the record.)

(Back on the record.)

HEARING OFFICER: Ladies and gentlemen if you would make your way back into the seats, we'll resume.

MR. MOORE: Bill Griffith.

MR. GRIFFITH: Thank you, Colonel. Good evening, my name is Bill Griffith, I'm a resident of Leavenworth, Kansas, I'm a native of Kansas and moved to Leavenworth about eight years ago and began to learn about the Missouri River in great detail. I saw the end of the 1993 flood and have followed closely the Master Manual process.

As a father of three, I've cherished the few recreational opportunities we're afforded on the lower river such as an excursion out to a rare sand bar.

As a history buff, I'm enthralled by the voyage of discovery and other colorful tales

of life along the Missouri and look forward to the excitement of the upcoming bicentennial of the Lewis and Clark expedition as do many others.

And as chairman of the Sierra Club's National River Committee, I thrill at the potential biological diversity the Missouri will give us if we make sound management decisions and change the decades old manual designed for a far different time.

Other 7

That potential is shackled as of now has led to great peril for the pallid sturgeon, the least tern and the piping plover. Many other fish and wildlife have seen their numbers plummet as well, and the downward spiral will continue if we persist along the same path. I wonder how this reflects on us as caretakers of the Missouri River, let alone of our Earth in general. Will our hubris continue by ignoring science and flying ahead with business as usual.

EnSp 7

The Sierra Club supports the recommendations of the U.S. Fish and Wildlife Service for a spring rise and lower summer flows on the Missouri River. Their

Other A

1 recommendations are based on the best
2 available science. To buttress that
3 statement, I'm comforted to see the Missouri
4 River's natural resource community members
5 from Montana, Kansas, Iowa, Nebraska, South
6 Dakota and North Dakota and Missouri has
7 stated publicly that the U.S. Fish and
8 Wildlife biological opinion is biologically
9 sound and scientifically justified.
10 David Golat, a University of Missouri
11 river ecologist was quoted in the Kansas City
12 Star last Wednesday as saying the idea of just
13 having a flood plain restoration and not
14 altering flows is a very naive point of view
15 from an ecological perspective.
16 He also mentions that there had been
17 about 130 scientific studies detailing the
18 negative impacts that can occur to fish and
19 wildlife when the river's natural flows are
20 altered. The good news that he mentions is
21 about 30 studies have showed how restoring the
22 flow and habitat can assist in the healing of
23 damaged rivers which also benefits humans
24 greatly.
25 The alternative FW 2021 in conjunction

1 with adaptive management practices offers the
2 best and in all probability the only chance
3 for the pallid sturgeon, least tern and piping
4 plover and other imperiled species to exist
5 with us along the river.
6 The spring rise as described in FW 2021
7 will be a conservative rise in many folks'
8 view, and as the Corps' own document states,
9 will not affect any new land, it will be done
10 on an average only once every three years,
11 will not be done when there's already higher
12 water flows and will not be the cause of
13 floods on the lower river. I believe I bring
14 some sensitivity to this matter as my family
15 owns river bottom land like some of the stake
16 holders along the river.
17 The spring rise should help other
18 threatened fish species rebound as well. The
19 State of Missouri used to have a thriving
20 commercial fishery and is now down to one
21 part-time commercial fishery.
22 The increase in these species will be a
23 boon for anglers, the boating industry,
24 canoeists, hunters and other recreational
25 enthusiasts. This will pump a substantial sum

EnSp 12

FC 8

Fish 3

Rec 10

of money into the basin assisting local economies in garnering a sustainable growth.

I find it interesting that although the recreation is not emphasized by the Corps and navigation is, that recreation brings in much more money. Think about the economic boost if we do more to emphasize recreation.

Rec 10

The lower summer flows will have added benefits of assisting recreation as well as more folks getting out on river on the newly created sand bars. This again will bring boaters, canoeists and campers down to the river instead of having them avoided as they do now. I look forward to the day I can take my children out in a canoe on the Missouri River and not feel they are in danger. Stopping and exploring a sand bar and finding a camp site to pitch a tent on is something I would cherish as a memory that would last a lifetime.

Rec 10

I'm also heartened to see that 2021 will assist Mississippi River navigation where the vast flow of the barge transportation occurs. It will save $7.3 million per year which is an improvement of 16 percent.

Nav 39

I also note that it increases hydropower benefits by 2 percent overall and supports the Missouri River barge navigation in the critical spring and fall periods when most agricultural products are shipped.

HPower 16

Nav 39

Given the benefits to fish and wildlife, the recreation industry, the increase in tourism that will follow, the hydropower benefits, the benefits to the Mississippi River navigation and the high level flood protection, this brings added clarity to the selection of FW 2021 as the best alternative for the Corps to implement.

Other A

Thank you.

HEARING OFFICER: Thank you, Mr. Griffith.

MR. MOORE: Alex Harris.

HEARING OFFICER: Alex Harris.

(Mr. Alex Harris is not present.)

MR. MOORE: Karen Uhlenhute.

MS. UHLENHUTE: That was brave of you to try that last name, you actually did a pretty good job of it, it's Uhlenhute. And I guess I would say I'm here representing the pallid sturgeon, the least terns, the piping

1 plovers, the people with binoculars, the
2 people with canoes and kayaks. And, you know,
3 I'm really distressed when I hear people get
4 up from all those congressional offices and I
5 realize that not one of them is speaking for
6 me or a bunch of other people that I know out
7 here.
8 You know, there are a lot of us who are
9 just really, really unhappy with the river
10 that runs through our town and through our
11 state with the state that it has reached after
12 60 years of management by the Corps of
13 Engineers. I actually got up close and
14 personal with the river several years ago, I
15 went on a short canoe trip just east of town
16 and it was kind of scary like Jeffrey McFadden
17 said. You moved very, very quickly and
18 there's no way to stop. I mean, there's
19 nothing to stop on, you move very fast, and I
20 remember vividly holding very tightly on to a
21 tree root and that was the only place that I
22 could slow down at all. There's no bound
23 water, there's no side channels, there's no
24 place where the water is going slower than, I
25 don't know, five or six miles per hour or

Rec 29

1 whatever it is. And I feel sorry for anything
2 that's in that water trying to cut it, because
3 I think it's a really tough -- it's a tough go
4 down there.
5 But anyway, I think that we were really
6 missing the boat on managing this river,
7 because I think that this could be a much more
8 friendly river to recreation and I think there
9 are many people who really want to recreate on
10 this river, but it is kind of difficult in a
11 number of ways.
12 And I think that the reason we're missing
13 the boat on these small boats is that we're
14 too fixated on the really big boats, the
15 barges which, frankly, you very seldom see on
16 this river. I think most of us know that the
17 barge industry is very close to a fantasy on
18 this river, and I just continue to be amazed
19 at why it is that we manage the river for a
20 very inconsequential industry. And frankly, I
21 have to guess that it's because they give a
22 lot of money to Congress and people like me
23 don't, and I really have a problem with the
24 system working that way.
25 I know that the Corps, at least people

Rec 29

Rec 27

Nav 11

ROBERTS & ASSOCIATES BY TOM ROBERTS, RPR, CCR

keep telling that the Corps is required by congress to manage this river for a number of purposes which unfortunately seem to be at cross purposes. And it seems to me that for about 60 years this river has been managed largely for a barge industry that has only gotten smaller and smaller and smaller. And I think that it is time to give a higher priority to the other uses that apparently are also mandated by Congress, particularly recreation on the lower river and habitat for wildlife.

Other 7

Nav 11

I think that if we really had a recreational resource going through this town and across this State, that we would make this city that prides itself on being very liveable even more liveable and ditto for the entire state.

I've heard people tonight talk about their concerns about flood control and I guess I would take that more seriously except for things like having read in the Star the other day that I think we're about to spend about $50 million in federal tax money to build a levee around a piece of bottom land property

FC 8

ROBERTS & ASSOCIATES BY TOM ROBERTS, RPR, CCR

in Riverside so that we can now build, I guess, some industrial facilities. And apparently, we're not learning the lesson here, that we have to back off from the river instead of invading it more with human activity of the wrong sort.

I've also heard people talk about unproven science here and I think the only way to prove the science is to give it a try, so let's do that in the form of GP 2021.

Other A, 14, 119

Thank you.

HEARING OFFICER: Thank you, Miss Uhlenhute.

MR. MOORE: Ron Gibson.

(Whereupon Mr. Gibson read a prepared statement, which is attached to the transcript.)

HEARING OFFICER: Thank you, Mr. Gibson.

MR. MOORE: Colleen Nunnelly.

MS. NUNNELLY: Good evening, gentlemen. I'm not here to talk about acronyms or flow rates, I want to talk about

1 my dad for a few minutes.
2 My father grew up near the river, I grew
3 up hearing him talk about being on the river
4 in a boat. I heard him talk about the flocks
5 of birds and I heard him talk about farming.
6 And, in fact, watched him farm some bottom
7 land on the river near Hermann. Sure,
8 sometimes he didn't have a crop, but he farmed
9 and he knew that that was one of the things
10 that the river brought, with its bounty, it
11 brought danger. I've been on that river in a
12 canoe, but unlike my dad and his friends when
13 he was a child, I had to be marshalled and
14 guarded by power boats who went along to be
15 sure that we weren't swept away by the river.
16 I want the opportunity for me and for
17 others to be on that boat in a canoe, visiting
18 on that river in a canoe or a kayak to be able
19 to fish, to see the flocks of birds again. I
20 want the opportunities that have been lost to
21 my father's children and grand children
22 through -- and it's been lost in one
23 generation of damning and channeling the
24 river.
25 My family went camping without my father,

Other A

1 who is no longer living, last month, and we
2 wanted to be on a river, we had to go to
3 southern Missouri to do that to feel safe. I
4 want to see wildlife endangered species come
5 back and I want to return to the river here,
6 to the Missouri River.
7 The flexible flow rate will accomplish
8 this and it will bring enhanced benefits to
9 many along the river.
10 Recreation brings significant income to
11 property owners along the Missouri River as it
12 has done to those along the Katy Trail.
13 Cities that have turned their faces to the
14 river prosper as they watch and use the
15 river.
16 I would like the next generations to have
17 returned to them those treasures that my dad
18 had.
19 Thank you.
20 HEARING OFFICER: Thank you, Miss
21 Nunnelly.
22 MR. MOORE: Richard Coleman.
23 HEARING OFFICER: Mr. Richard
24 Coleman.
25 (Mr. Richard Coleman is not present.)

Other A

Rec 10

MR. MOORE: Linda Hanley.

MS. HANLEY: Thank you. My name's Linda Hanley, I'm not a lawyer, a politician or a scientist, but I am a user of the river.

The lady who just spoke should come with us sometime, we use the river now in canoes and kayaks. However, I agree that the river has changed in the last 30 years that I've been on it. The sand bars are disappearing if not already totally gone.

The years in the early 70s, we canoed from Yankton, South Dakota at Gavins Point to Kansas City, from Kansas City on to St. Louis in canoes, camped on beautiful sand bars. We don't have that anymore.

It's unrealistic to think that we'll go back to the river that Lewis and Clark saw. None of us would want to, we wouldn't have our power our water our sewage disposal and we would have very reduced flow sometimes and floods. We still have reduced flow and floods. However, with the adaptive management as they call it, we can keep that to a minimum.

Other 7, 178

With the attitude that we've got to do it the way it's been done because it's always been done that way is throwing new science out the window and I would like to see -- we need a change.

I'm not a scientist again, I can't say which program is the best, but I'm sure there are many minds here who are working on that and have much more knowledge than I do, but definitely we need to try something new.

The thing we have to realize is that there are extreme opposite opinions and extreme difference in interests amongst the people involved in this, but cooperation and comprehension of the impact that these choices are going to have on future generations of not only pallid sturgeon and plovers but of people as well. And we must realize there must be a compromise that will bring the best to as many people as possible.

Other 7

None of us want to see a farmer lose his crop nor a business lost due to lack of transportation. But everyone is going to have to compromise for a better solution in the end.

Other 7, 48

Thank you.

HEARING OFFICER: Thank you, Miss Hanley.

MR. MOORE: Jamie Mierau.

(Whereupon Ms. Mierau read a prepared statement, which is attached to the transcript.)

HEARING OFFICER: Thank you, Miss Mierau.

MR. MOORE: Charles Benjamin.

(Whereupon Mr. Benjamin read a prepared statement, which is attached to the transcript.)

HEARING OFFICER: Thank you, Mr. Benjamin.

MR. MOORE: Joe Lamothe.

(Whereupon Mr. Lamothe read a prepared statement, which is attached to the

transcript.)

HEARING OFFICER: Thank you, Mr. Lamothe.

MR. MOORE: Chuck Osborn.

HEARING OFFICER: Mr. Chuck Osborn.

(Mr. Chuck Osborn is not present.)

MR. MOORE: Ron Cook.

HEARING OFFICER: Mr. Cook.

(Mr. Ron Cook is not present.)

MR. MOORE: Tom Hanley.

MR. HANLEY: Hello, my name is Tom Hanley and my primary interest is in recreation and access to the Missouri River in the stretches above and below Kansas City, but that's not what this meeting is about. It's about how the Corps of Engineers is going to control its six dams.

The current plan favors only the barge industry which is very minuscule on the Missouri River. Most of the barge industry is

on the Mississippi River and the Ohio River. And to suggest that the fact that there is a barge industry in any way affects the rates on railroad traffic or trucking traffic, I think is not valid.

Nav 6, 8

The five other plans presented in the Corps proposals here in the Environmental Impact Statement appear to benefit fishing, boating, wildlife, recreation, and even reduce potential flooding in the summer months. The modified plan for the upper basin region clearly benefits those states. They, in fact, are -- been negatively impacted by very low water levels in their recreational industries.

Rec 8, 10

The key issue in this matter is the potential of downstream flooding in the Missouri or State of Missouri. And the crux of the issue is can the Corps handle the spring rise once every three years as proposed in these GP plans.

FC 8

Are they able to raise the river for up to three feet during four weeks once every three years? They're not going to let this water all out at one time, they are going to

let it out over a period of four weeks and even though you can't predict, as we have heard earlier speakers say it takes ten days for the water to get down to St. Louis, even though you can't predict the weather that far ahead, I truly believe that the Corps would be able to, through gauging downstream river levels, to be able to accurately assess whether or not they can release on a particular day the amount of water required for this rise.

FC 8

Every one knows that the Missouri River goes up by more than three feet or down by more than three feet every year due to the local rain events. And the question that a lot of people ask is during the '93 flood, why didn't the Corps prevent it. And the simple fact is that the last dam is Yankton, South Dakota and there's an awful lot of streams and tributaries and water basin below Yankton, South Dakota. So there's no 100 percent guarantee that a flood will never occur no matter what plan you use.

FC 8, 10

Even the farmers who farm the flood plains know this. That's why all the dikes

are built, that's why you see buildings on top of mounds and houses on the hillsides. No one can guarantee that there will never be a flood. But it's time for a change. I believe the Corps can pull off the spring rise once every three years. Politicians and farmers today we've heard say don't budge an inch, don't move the river from where it is. Scientific studies and speakers we've heard tonight say we need to make this change in order to benefit fish and wildlife. I believe the truth lies somewhere in the middle and I support the plan GP 1528 with a minimum spring rise and a maximum summer flow and let's experiment and see what happens.

Thank you.

Other 13, 79

HEARING OFFICER: Thank you, Mr. Hanley.

MR. MOORE: William Gresham.

HEARING OFFICER: Mr. Gresham.

(Mr. William Gresham is not present.)

MR. MOORE: Franklin Pogge.

(Whereupon Mr. Pogge read a prepared statement, which is attached to the transcript.)

HEARING OFFICER: Thank you, Mr. Pogge.

MR. MOORE: Tom Waters.

(Whereupon Mr. Waters read a prepared statement, which is attached to the transcript.)

HEARING OFFICER: Thank you, Mr. Waters.

MR. MOORE: Dennis Ollick.

HEARING OFFICER: Mr. Dennis Ollick.

(Mr. Dennis Ollick is not present.)

MR. MOORE: M. A. Almai.

(Whereupon Mr. Almai read a prepared statement, which is attached to the transcript.)

HEARING OFFICER: Thank you, Mr.

Almai.

MR. MOORE: Janet Mershon.

MS. MERSHON: Good evening, my name is Janet Mershon, my family and I own and operate a family farm in Jackson County. It's about 30 miles east of here. I also serve on the State Board of Directors for Missouri Farm Bureau, the State's largest general farm organization.

First I want to commend the Corps staff for their perseverance and hard work. They have always been willing to answer our questions and listen to our concerns. For the record, Farm Bureau strongly opposes the flow changes now being considered. While we remain hopeful that a balance can be achieved with the exception of the current plan, many of the options are acceptable. Many people in this room have been involved in this issue since its inception. In fact, Farm Bureau gave the following remarks at a public hearing on the Corps' preferred alternative in October of 1994. To farmers, the detrimental impact of the plan appears obvious and very immediate while some of the State environmental goals

Other 6, 48

and objectives appear far more vague and hard to verify. We fear that plans such as the Corps' prefer alternatives fail to adequately consider the inland population and only serve to further undermine public support for reasonable efforts to protect fish and wildlife.

Colonel, today, seven years later, we find ourselves facing the same alternatives, and farmers positions has not changed. Unfortunately, what started out as a debate about drought management has evolved into a referendum on the Endangered Species Act, an attempt to expand significantly the Missouri River mitigation program, an all out assault on river commerce. As a result, we find ourselves fighting in the halls of Congress and within the walls of courthouses across the country.

Colonel, we have members that farm in all 25 counties along the Missouri River. They continue to struggle with extremely low commodity prices and rising input cost. In fact, the federal government has had to step in four consecutive years with emergency

Other 7, 70

1 economic assistance.
2 The Bush administration has indicated
3 that we must be more involved in global
4 markets. In other words, we need to be more
5 competitive. If that's the case, shouldn't we
6 be doing everything possible to enhance river
7 commerce not only on the Missouri, but other
8 rivers such as the Mississippi. Losing river
9 commerce not only eliminates an important mode
10 of transportation, but also gives the green
11 light railroads and trucking companies to
12 raise their rates. Shouldn't we be making
13 every effort to decrease the risk of flooding
14 in the fertile bottoms. Our farmers already
15 know the impact of higher flows in the
16 spring. Ask anyone who was flooded in '93,
17 '95 and as recently as this spring. The fact
18 is we already have a spring rise and don't
19 need to be a part of contemporary science
20 experiment.
21 In closing, Colonel, we are opposed to
22 any change. We believe there are alternatives
23 that could enhance aquatic habitat without
24 major system modifications, without massive
25 new land acquisition programs, without

Nav 56

FC 6

Other 6

1 significant increases in energy cost, without
2 controlled flooding and without out-of-basin
3 transfers. For this reason at this time, we
4 have no choice but to oppose the alternatives
5 currently under consideration.
6 Thank you.
7 HEARING OFFICER: Thank you, Miss
8 Mershon.
9 MR. MOORE: Linda Waters.
10
11 (Whereupon Ms. Waters read a prepared
12 statement, which is attached to the
13 transcript.)
14
15 HEARING OFFICER: Thank you, Miss
16 Waters.
17 MR. MOORE: Hal Swansy.
18 MR. SWANSY: Good evening, sir,
19 my name is Hal Swansy. I and three people
20 that are my landlords, we're the people that
21 everyone wants to experiment against or on.
22 Sir, I farm on the Missouri River as well
23 as the Platte River which is a tributary of
24 the Missouri River. This is my first year on
25 the Missouri River, but my family and I have

farmed on the Platte River for some 50 years. Right now I farm more than 1,400 acres on the Platte River and, sir, I can tell you that we suffer much greater crop loss in any time there's a rise on the Missouri River any time we have local flooding. In your plan to increase the spring rise will no doubt decrease any family's income as well as for the widows I farm for. Sir, I'm asking to you develop a good plan.

FC 6, 8

Another point I would like to touch base on that was brought up, there's been several people that have been expressing concerns about loss of wildlife along the river. In Platte County the Missouri Department of Conservation owns several thousand acres along the Platte River and the wildlife there is well established and doing quite well and I'm feeding them a great amount, so they're doing quite well at my expense. Even on my own farm, we have established a wetland area for wildlife. We farmers are not all a bad lot.

WRH 6

Thank you for your time, sir.

HEARING OFFICER: Thank you, Mr. Swansy.

HEARING OFFICER: I'm going to go through these cards to make sure that folks who signed these have an opportunity to speak. I just want to make sure we didn't miss anybody. Again, Mr. Dennis Ollick. Mr. William Gresham. Mr. Ron Cook. Mr. Chuck Osborn. Mr. Richard Coleman. Mr. Alex Harris.

Okay. Then I will ask this question, is there anyone else who wishes to testify this evening?

(No response.)

HEARING OFFICER: Let the record reflect the negative response.

Thank you ladies and gentlemen for participating in this process. Good evening.

(Hearing concluded at 10:40 p.m.)

ROBERTS & ASSOCIATES BY TOM ROBERTS, RPR, CCR

STATE OF MISSOURI)
) ss
COUNTY OF PETTIS)

I, Thomas Roberts, Certified Shorthand Reporter and Notary Public of the State of Missouri do hereby certify that the foregoing transcript is a true and correct transcript of my original stenographic notes.

I further certify that I am neither attorney or counsel, nor related to any party to said action, nor otherwise interested in the outcome thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal this 8th day of December, 2001.

Thomas H Roberts

THOMAS ROBERTS

COST DUE FROM: Corps of Engineers

THOMAS H. ROBERTS NOTARY PUBLIC

THOMAS H. ROBERTS
NOTARY PUBLIC - STATE OF MISSOURI
PETTIS COUNTY
MY COMMISSION EXPIRES AUG. 4, 2003

COVERING MISSOURI - ST. JOSEPH TO ST. LOUIS 1-800-633-8289

STATEMENT BY SENATOR KIT BOND
ON MISSOURI RIVER
MASTER WATER CONTROL MANUAL
PUBLIC REVIEW

- ST. JOE November 1st
- KANSAS CITY November 6th
- JEFF CITY November 7th
- ST. LOUIS November 13th

To be presented on behalf of Senator Kit Bond by his representative:

"Col. Fastabend (or principal), members of the Corps, and my Missouri neighbors, I regret that I cannot be here tonight because the Missouri hearings have been scheduled during the middle of the week when Senate is in legislative session. Thank you for the opportunity to provide initial public testimony. More comprehensive testimony will be provided later in the comment period when I have the opportunity to review the materials in full that were just recently made available for the public for inspection.

On that point, I renew my previous request that the comment period be extended and that an additional public hearing be held in Missouri at the end of the public comment period so that experts in our State have a fair opportunity to review the hundreds of pages of technical data. As I noted previously, it has taken the Corps many years to compile the data and public comment would be much more meaningful if the public had more than a few weeks to review it. Other 26

My sincere thanks to the many people who have taken the time to appear here tonight to discuss this important matter. Leaving your office, your home, your family or your field to come stand in line to testify - in many cases to testify again - demonstrates your commitment to public involvement and proves your confidence that the government will actually listen. In the end, it will be up to the Government to prove if your confidence in them was well-placed. They should listen to you because you are the ones who will have to live every day with the consequences of the decisions that are proposed to be made.

In summary, I believe that government should protect people from flooding, not cause floods. It should produce more efficient transportation options, not railroad monopolies, and it should continue the clean production of hydropower, not discourage it. This is always the case but it is even more obviously the case when our economy slows and jobs are at risks and families are feeling serious economic pain. The Fish and Wildlife Service plan fails because the plan's value to fish habitat is dubious while its risk to people is very real. FC 6

The good news is that I believe this new Administration will listen to you and wants to find ways to improve fish and wildlife habitat without hurting people and property. This Administration

did not start this mess, but they are left to clean it up. The President will soon have language approved by Congress in the Energy and Water Appropriations Act for 2002 which states clearly that the Secretary of the Army 'may consider and propose alternatives for achieving species recovery other than the alternatives specifically prescribed by the United States Fish and Wildlife Service.' It says further that, 'the Secretary shall consider the views of other Federal agencies, non-Federal agencies, and individuals to ensure that other congressionally authorized purposes are maintained.'

This language means two things: It means the Fish and Wildlife Service does not have a monopoly on this process and it means that the Army must maintain flood control and navigation. Other 2

In the end, I believe that the process can and will produce positive initiatives to help improve habitat for fish and wildlife and I believe that it will do so without selecting an alternative which injures people and property.

The proposition before the government is as follows: Shall this government increase your flood risk, bankrupt water transportation, leave shippers to the mercy of a railroad monopoly, and reduce energy production during peak periods of energy demand during an energy crisis because there is a chance it might help three endangered species? FC 6

This may be a fascinating experiment but only for those who propose it from a safe distance. It should be rejected on behalf of those who have live with the consequences - those who have to pump water out of their basements, rebuild their levees, watch their fields go unplanted, wait to see if and when railroad cars are available to pick up grain or who struggle to pay their utility bills.

This experiment is too dangerous and defies common sense. People downstream rely on the river for their livelihood and they know the risk and have felt the economic and human loss when the river behaves outside its average tendencies. At the edge of these tender averages, people have died. In Missouri, on average, it is neither cold nor hot. The Corps says that on average, few will be hurt much but it isn't the averages we are worried about, it is the additional extremes that we cannot tolerate and this plan will give us more years that homes and farms flood. The Fish and Wildlife Service responds that people already face risk so why wouldn't they be willing to face even greater risk. Again, that is something that only someone outside the floodplain could possibly and absurdly suggest. FC 8

The science of a river this size is extremely complex and the understanding of how everything interacts is understandably minimal. That is why you are not likely to field a group of scientists willing to bet their own jobs that the Fish and Wildlife Service alternative would restore the palid sturgeon population. They are clearly willing to bet your jobs. The Fish and Wildlife Service, like the rest of us, want there to be more palid in the river, but the Fish and Wildlife Service also wants to avoid going to court and since some have threatened to sue them if they don't propose a spring rise and summer low flow, they propose a spring rise and summer low flow. EnSp 25

They then attempt to market it to the public as being necessary because it is natural when in fact it is not. The proposed summer low would occur when the historic natural high peak occurred following the upstream snow-melt period. This proposal inverts the natural hydrograph that is so often used to justify the pain of the Fish and Wildlife proposal.

We are fully aware of a natural 'spring rise' because in Missouri, we already have one. It is dangerous and it floods rural and urban communities without warning. When it rains in the spring, unregulated tributary flows swell the river from normal to flood stage in hours and this is the monster that the Fish and Wildlife Service wants us to flirt with by adding what they call 'no more than 3 feet' of water in the spring. FC 8

Until officials can accurately make 14 day weather forecasts, they are simply playing Russian Roulette with the gun barrel pointed at your heads. Other 10

What the Fish and Wildlife Service is really hanging their hat on is called adaptive management which was revealed in recent Fish and Wildlife Service testimony for what it really is: -- the desire to go much further than specifically prescribed without the hassle of complying with the law or consulting the pubic.

In Sioux City, Iowa, on October 11, the Fish and Wildlife Agency testified as follows: 'Our agency, and the Corps, also recognized the importance of some flexibility in management that would enable Missouri River managers to capitalize on existing water conditions to meet endangered species objectives without having to go through another 12-year process.'

Besides showing contempt for a process that involves the public, it shows that they know that their plan is full of holes otherwise they wouldn't be asking for the flexibility to change their plan without consulting the people who pay their salaries. Other 10

In the end of this process, I believe that part of what will happen is the same thing that happened seven years ago. This Administration, like the Clinton Administration, will hear from the people on the Missouri and Mississippi Rivers and determine that the risk to people and property is too great and reject the nonsense.

For those who are new or young, the Corps was in Kansas City, seven years ago with roughly the same "spring flood" proposal and the same notion that the river transportation season should be shortened but then, it was a more natural hydrograph than what it is currently being proposing. Nav 30

Seven years ago, the plan was condemned from Omaha to New Orleans by the public. I have been very critical of the Clinton Administration for trying to force this down our throats this last year, but everyone should be reminded that it was the Clinton Administration in 1994 who proposed it only to reject it subsequently.

Back in March 1995 Acting Secretary of Agriculture Richard E. Rominger notified the Corps in a detailed letter that the U.S. Department of Agriculture "opposes the [preferred alternative] because of the potentially damaging effects that this plan poses for lower Missouri River basin

farmers, agricultural shippers, and the navigation industry."

Back in April of 1995 Secretary of Transportation Federico Pena outlined in written detail his department's opposition to the plan to shorten the transportation season. He concluded, "I am concerned that operations under the proposed alternative would severely impact navigation on the Missouri River, and may restrict navigation on the Mississippi River during periods of drought."

Now that was when the Departments were free to speak and before the Fish and Widllife Service became authorized to speak for all other departments. Those were the honest views from experts from Cabinet-level positions who are appointed by someone who was elected and confirmed by the U.S. Senate.

Each Secretary asked the Army to coordinate with the Department of Agriculture and the Department of Transportation which the Army has not done but I predict will be forced to do before this process is over.

Governor Holden and the Mississippi River Governors of Kentucky, Tennessee, Louisiana, Mississippi, Illinois, Arkansas, Wisconsin and Minnesota have written to the President earlier this year to communicate their opposition to this plan because of the impacts it will have on the Mississippi River which you will learn more about when you travel to Memphis and New Orleans.

There are nearly 100 organizations of the National Waterways Alliance from Virginia to Oklahoma to Mississippi to Minnesota to Alabama to Nebraska to Louisiana to Ohio and Pennsylvania who have written in opposition to what the Fish and Wildlife Service is trying to impose.

The American Soybean Association, National Corn Growers Association, National Association of Wheat Growers, National Grain and Feed Association and other national groups who represent farmers have written in protest of the Service proposal.

I want the people here in Kansas City to know that you are not alone and that your voice is being heard and that your team is growing and will grow louder and more forceful in the months ahead.

Other 70

I believe what will happen at the end that did not happen seven years ago is that the Administration will actually identify projects and approaches that build habitat but do not injure people and property. The Bush team will work with the Congress, the States and the public to fund and implement them aggressively.

There are many ways to improve fish and wildlife habitat without hurting people and property. That should be and will be the ultimate positive approach that I believe the government will take. I believe that the upstream states, and not just Missouri, should have a role in devoting their own state resources to improve the river rather than just demand that the benefits be imported and the burdens exported. They want more water during periods of prolonged drought and so do we, but we are not hiding behind the Endangered Species Act to argue our case.

Many brave young men and women are in harm's way risking their lives as we speak to keep this country safe. At home, we must make our economy strong and we look to government to work with us, not against us, in fulfilling that mission.

I thank the public for being here tonight and I thank the Corps for being available to listen."

TESTIMONY SUBMITTED BY U.S. SENATOR JEAN CARNAHAN
November 6, 2001

Thank you for the opportunity to address an issue that is very important to the people of Missouri. As you can see, my State lies at the confluence of these two great rivers, the Missouri and the Mississippi. The rise and fall of these rivers has a tremendous effect on Missouri -- on its agriculture, recreation, environment, and economy.

Eight years ago Missourians faced one of the worst floods in the State's history. The great flood of 1993 destroyed crops, farmland, and entire neighborhoods. The damage caused by '93 flood ran into the billions of dollars.

This year we saw communities up and down the river again battling floodwaters. It astounds me that any government agency, whether it be the U.S. Fish and Wildlife Service or the Corps of Engineers, would contemplate an action that would put Missourians and residents of other downstream states at risk of even more flooding.

Changes to the Missouri River Master Manual could have a disastrous impact on Missouri and other downstream states. If the Corps implements any of the proposed alternatives under consideration in the Revised Draft Environmental Impact Statement (RDEIS) – other than the Current Water Control Plan (CWCP) -- Missouri would suffer great losses. Our agricultural industry would suffer, not only by the higher risk of flooding, but also by delayed or prevented planting due to backwater during the spring planting season.

FC 8
IntD 8

Any change would also damage the region's overall economy. The barge industry alone contributes as much as $200 million to our economy and would be severely hurt by the changes in the River levels. We also must consider the effect on the Mississippi River. The alternatives other than the CWCP would jeopardize 100 million tons of Mississippi River barge traffic, which generates $12 to $15 billion in annual revenue. Irrigation, public water supplies, and Missouri utilities would also be negatively affected by proposed changes.

Nav 6, 8
WS 11
Miss 4

The Corps is considering such changes to the Missouri River Master Manual by a large degree to help endangered species. While I strongly support protecting endangered species, I firmly believe that we must factor in the hardships that we are placing on our citizens as well. Furthermore, I am not convinced that many of the proposed changes would actually accomplish the goals of protecting these species.

EnSp 17

In recent years, this has become a partisan issue. It should not be. Some say that it is an environmental issue. However, the environmental benefits of the proposed changes have not been proven. Others say that it is solely an economic issue affecting upstream states. It is not. On balance it would greatly harm our economy.

This is an issue of fairness, and it is not fair to expose Missourians and other downstream residents to severe flooding, economic loss, and potential environmental destruction. I strongly urge the Corps to consider this when selecting a plan to govern the flow of the Missouri River.

Other 6, 48

Testimony for Congressman Sam Graves

I am sorry I cannot be with you. As you know, Congress is in session today. I want to begin, however, by thanking the Corps of Engineers for hosting these public hearings. I believe that it is very important for people who live and work along the river to have an opportunity to voice their opinion on this very important issue. As the Congressman representing the Kansas City, North area of Missouri, I will not support any Missouri River flow plan that includes an artificial spring rise.

The Missouri River brings great benefits to the people and economy of Northwest Missouri. Nearly 300 miles of the Missouri River runs through Missouri's 6th Congressional District, and I have joined the fight to preserve navigation and flood control on the River. Nonetheless, I am confident that the Corps of Engineers can work with other interested parties to develop a management plan that enhances wildlife habitat, promotes sound flood control, maintains river commerce, and preserves the diverse uses of the Missouri River. The River plays a vital role in providing water for farming and communities as well as transportation for a variety of industries in Missouri. It is a critical part of our State's economy.

As we all know, last year, the National Fish and Wildlife Service issued a final biological opinion regarding the Missouri River that proposed returning to the "natural flow" of the river causing higher water levels in the spring and lower levels in the fall. The artificial spring rise would place thousands of families and hundreds of farms, businesses, and communities at risk in an effort to protect three endangered species: the least tern, piping plover, and the pallid sturgeon. I for one am not willing to risk the lives and property of hundreds of farmers and business owners in order to implement an unproven, unscientific, and risky scheme that may or may not improve the habitat of these three species.

EnSp 17

The spring rise would devastate communities in my District that are located along the Missouri River. When pulses are released from upstream dams in the Dakotas and Montana, it takes as long as 12 days to reach St. Louis where the Missouri meets the Mississippi. Once water is released, it cannot be retrieved. Any rains during that 12-day period would make it impossible to control the amount of flooding that might occur. As a farmer, I know all too well that the Missouri River floods enough naturally; we do not need any additional, government-imposed floods.

FC 8

Furthermore, the low water levels in the fall could eliminate river transportation on the Missouri River. River commerce is very important to the agricultural community of our State. Missouri's agriculture producers depend heavily on river navigation to export grain to the world market. In fact, of the billions of dollars in commerce that travel the River annually, more than one-third of the commercial shipments are grain valuing more than $966 million. Additionally, barge transportation is an environmentally friendly and cost-effective option for farmers and shippers moving goods down the River and into the global marketplace.

Nav 66, 12

Since I was elected, I have fought along side other members of the Missouri delegation to prevent these government-imposed floods from becoming a reality. I will continue to work with my colleagues to stop the spring rise and split navigation season. I am committed to this issue, and I am confident that the people of Missouri, Congress, and the Corp of Engineers can work together to find a balanced approach that is not at the expense of landowners and farmers working and living along the banks of the Missouri River.

Other 7

Thank you for your time and your attention

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U.S. ARMY CORPS OF ENGINEERS
MISSOURI RIVER MASTER MANUAL REVIEW
AND UPDATE REVISED DRAFT
ENVIRONMENTAL IMPACT STATEMENT (RDEIS)

Kansas City, Missouri

November 6, 2001

Presented by
Dale L. Frink
North Dakota State Engineer

Thank you for the opportunity to testify on this very important issue. Governor Hoeven provided testimony on the Revised Draft EIS on October 23, 2001 in Bismarck, North Dakota. Governor Hoeven's testimony and the detailed written comments that North Dakota state agencies will be submitting describe the state's position on this draft EIS. I am here this evening to listen to the concerns of our downstream neighbors, and to provide a brief description of North Dakota's position. My message tonight is the same strong and clear message that North Dakota and most of the Missouri River basin states have been voicing for years. The Missouri River Master Manual must be changed to meet the contemporary needs of the basin, and the time for this change is far past due.

Other 7

Any of the five alternatives described in the draft EIS are an improvement over the current water control plan. The drought conservation measures, included in the five new alternatives, are essentially those agreed to by seven of the eight Missouri

River Basin Association (MRBA) member states. These drought conservation measures proposed by MRBA are a vast improvement over the 40-year-old Master Manual and should be implemented as soon as possible. Strictly from North Dakota's standpoint, they do not go far enough. However, we recognize that progress often requires compromise and, as a result, we voted for a plan that could be supported by seven of the eight Missouri River basin states. This MRBA plan includes the conservation measures that the upper basin states need but does not include a spring rise below Gavins Point due to many concerns expressed by our downstream neighbors.

Other 61, 198

The draft EIS shows that these drought conservation measures increase the total NED benefits of the system as well as the benefits of most authorized uses. Unfortunately, navigation benefits are slightly reduced under any of these alternatives. However, navigation is only one of the authorized purposes of the reservoir system. The benefits of all uses must be considered equally when operation decisions are made.

Nav 10, 30

Although the Missouri River and operation of the dams are critical to North Dakota's future, we realize all of the states in the basin depend on the river. North Dakota does not consider the Missouri River to be only our water, and we do want to equitably share the water, but this includes both pain and gain. About 75 percent of the runoff into the mainstem reservoirs comes from Montana and Wyoming.

Essentially all of the storage of the water is in North Dakota, South Dakota and Montana - over 1.6 million acres of land was acquired by the Corps for the reservoirs in these three states. Promises were made when the dams were authorized by Congress in regard to water development and water use. For example, the O'Mahoney-Milliken Amendment, which is part of the 1944 Flood Control Act, states that the use of water from the reservoirs for navigation shall not conflict with any beneficial consumptive use, present or future, in states lying wholly or partly west of the ninety-eighth meridian. Given these facts, perhaps you can understand why we become slightly annoyed when we hear officials from the state of Missouri claim it is all "their" water.

Other 205

Legal 112

Comments have been made about the impacts of the Dakota Water Resources Act on the Missouri River. The Dakota Water Resource Act is a vastly scaled down version of the original Garrison Diversion project and does not provide any where near the irrigation promised to North Dakota in compensation for the land lost to the reservoirs. The exact water needs for North Dakota included in the Dakota Water Resource Act have not yet been determined and, in fact, are only in the study phase. However, the amount is likely to be only a few hundred cubic feet per second compared to an average annual flow of the Missouri River at Kansas City of over 50,000 cfs. To state it another way, the Dakota Water Resources Act will put to beneficial use less than 1 percent of the annual flow at Kansas City. I doubt that the USGS gage at Kansas City can accurately measure such a small amount.

Other 172

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Lastly, I thank you and our downstream neighbors for this opportunity to describe North Dakota's position. I ask that everyone take away from this meeting that the benefits of the Missouri River and the pain of shortages in times of drought should be shared equitably throughout the basin.

Other 7

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John Reddy
City of Kansas City - Water Supply Division

The Corps is being forced into a plan to operate the Missouri River System closer to a more natural river pattern similar to the days of no dams with high run off levels in the spring and fall and low summer flows. The original construction of the dams was primarily for flood control and followed by navigation, water supply and power generation. By going to this new operations of the Missouri River Basin System is going against the original design of the dams. Why? What is to be gained by this? The saving of some endangered species, specifically the pallid sturgeon, the lest turn, and the ~~sandpiper~~. piping plover

Other 7

Having lower river levels in the summer is accomplished by lower water releases from Gavins Point, which means lower releases from all the dams up river from Gavins Point. Lower water releases from the Dams will result in higher water temperatures in the Missouri River and a greater mix of turbid run off water in the river with higher organic nutriments. With the higher temperatures the algae growth with be stimulated. This will increase treatment costs to remove the adverse taste and odor generated by the algae. Two other adverse biological measures will be increased in the river, which are turbidity and total organic carbons. EPA has lowered the maximum contaminate level of these components in our delivered potable water. With increases in these contaminates by this proposed new operation of Missouri River System our water treatment is made more costly and difficult. Another direct adverse effect, the increased temperatures of the river during the summer in the higher temperature gradient in our cast iron water mains. The normal ground temperature is 55 degrees F and when the temperature of increases above 80 degrees to 90 degrees the cast iron water main failures more than double.

WQ 2

During the flood of 1993 when the waters of the Missouri River were lapping within the top two feet of our concrete and earth levee here in Kansas City for nearly two weeks near our water treatment plant, I was very thankful for the Corps and their dams and levee systems. I believe that the 650,000 people that Kansas City, Missouri provides water for were also grateful. With the proposed plan to operate the Missouri River System closer to a 'natural river' we are increasing the risk of flooding in our city. The summer flows for navigation are also for ridding the reservoir of floodwaters. The summer of 1993 was close call for us and for others it was too much. Why are we doing this based on an unproven science for the sake of endangered species? It is my concern that the proposed lower summer river flows are an unnecessary gamble that we should not have. This is because of the confidence we have placed in the levees and dams in that we have built in the flood planes behind the levees.

FC 8

CARROLL COUNTY COMMISSION

David Martin, Eastern Dist. *Nelson Heil, Presiding* *Donald Vantrump, Western Dist.*

*8 S. Main, Suite 6, Carrollton, MO 64633 * Phone: (660) 542-0615 * Fax: (660) 542-0621*

October 29, 2001

U.S. Army Corps of Engineers Northwestern Division
Attn: Missouri River Master Manual RDEIS
12565 W. Center Rd.
Omaha, NE 68144-3869

To Whom It May Concern:

The Carroll County Commission does hereby go on record as being in opposition to the spring rise - low summer and fall rise (split season) for the following reasons:

1. The increase releases most surely would put water against the levees regardless of normal run-off below Gavins Point.
2. The seep-water from this high river would prevent many fields from being planted.

Sincerely,

Nelson Heil, Presiding Commissioner

David Martin, Eastern District Commissioner

Donald Vantrump, Western District Commissioner

CCC/hab

U.S. Fish and Wildlife Service
Public Comments
Missouri River Master Manual Hearing
November 6, 2001 - Kansas City, Missouri

Good evening, my name is Charles Scott and I'm here this evening on behalf of the U.S. Fish and Wildlife Service to issue a brief statement on the Revised Draft Environmental Impact Statement for the Missouri River Master Water Control Manual. I'm also here to listen to the comments in person from citizens on this important issue.

The Service has primary authority for oversight of our nation's rarest animals under the Endangered Species Act. The Missouri River is home to the endangered pallid sturgeon and least tern, and the threatened piping plover. The decline of these species tells us that the river is not healthy for its native fish and wildlife, and that there needs to be a change in its management to restore the Missouri to a more naturally functioning river system. A healthy river provides wildlife habitat, supports fishing, and makes boating an attractive recreational activity.

Congress committed the Federal Government to preventing extinctions by requiring Federal agencies to use their authorities to conserve endangered and threatened species. During the last 12 years our agency has been working with the U. S. Army Corps of Engineers to modernize the management of the Missouri River to help stabilize and hopefully, begin to increase and recover populations of these vary rare animals. This new approach was described recently in a document called the "Missouri River Biological Opinion," published in November 2000.

The biological opinion looks at the river as a system and outlines the status of these rare species, the effects of the current operation on them, and a reasonable and prudent alternative to the current operation that will not jeopardize their continued existence.

Our biological opinion is based on the best available science and includes nearly 500 scientific references. In addition, we've sought out 6 respected scientists – "big river specialists" – who confirmed the need to address flow management, as well as habitat restoration. Further, the Missouri River Natural Resources Committee, a group comprised of the state experts on

Missouri River management, endorses the science in the opinion.

If you have read the RDEIS or summary document, you understand that the "GP alternatives" encompass the range of flows identified by the Service as necessary below Gavin's Point Dam to keep the listed species from being jeopardized. Our agency, and the Corps, also recognized the importance of some flexibility in management that would enable Missouri River managers to capitalize on existing water conditions to meet endangered species objectives without having to go through another 12-year process.

Other management changes identified in the biological opinion include a "spring rise" out of Fort Peck Dam, an improved hatchery operation to assist declining pallid sturgeon populations, restoration of approximately 20% of the lost aquatic habitat in the lowest 1/3 of the river, intrasystem unbalancing of the three largest reservoirs, and acceptance of an adaptive management framework that would include improved overall monitoring of the river.

In closing, the Service supports the identified goal of the revised master

manual - to manage the river to serve the contemporary needs of the Missouri River Basin and Nation. These needs include taking steps to ensure that threatened and endangered species are protected while maintaining many other socioeconomic benefits being provided by the operation of the Missouri River dams. The Service stands behind the science used in the opinion, and is confident that the operational changes identified in our opinion, and included in the RDEIS as GP alternatives will ensure that these rare species continue to be a part of the Missouri River's living wildlife legacy.

The Missouri River is a tremendous river, with a significant and revered heritage. Our influence has altered the river greatly. Changes are needed to modernize and restore health to the river – for the benefit of rare species and for people, too.

LAFARGE NORTH AMERICA

Revised EIS for the Missouri River Master Water Control Manual
November 6, 2001 Public Meeting
Kansas City, Missouri

Good evening, my name is Steve Kidwell. I work for Lafarge North America Inc. We are a worldwide leader in supplying construction materials, most notably Portland cement, concrete, aggregates, wallboard, and roofing tiles. Lafarge is strongly committed to producing high quality products safely and responsibly.

I work at our cement plant in Sugar Creek, Missouri. Our facility and property lie on the south bank of the Missouri River just east of Kansas City, Missouri. I manage all the environmental and public affairs at our location there.

Cement manufacturing has existing at this location long before Lafarge acquired the facility in 1991. In fact our property has supported limestone mining and cement manufacturing since 1907. The river has been used for raw material, fuel, or product transportation since the beginning.

Lafarge is investing heavily in this location. To meet increased demand, we are nearing the completion of a $200,000,000 project to nearly double our annual cement production capability. Lafarge has also recently invested over $300,000 in the barges used to transport cement to Omaha, Nebraska.

The Sugar Creek Plant is part of Lafarge's River Region, which includes cement plants and numerous terminals located on the Missouri, Mississippi, and Ohio Rivers. River transportation is a vital link in between Lafarge's plants and suppliers, and is the most cost effective, safe, and, environmentally friendly form of transportation that we can employ in our region.

my plant

As a specific example, next year ~~Lafarge~~ anticipates shipping up to 79 barge loads of cement to our customers. This same amount of material would require over 4000 tractor-trailers, create additional safety and noise concerns for our cities and highways, and consume 3-4 times the amount of fuel resulting increased air emissions.

Nav 49

These are significant environmental and quality of life impacts. And yet, I haven't even included the impact of receiving raw materials or fuels by barge.

River transit also serves to keep rail and truck transportation rates more competitive, and that is good for all industries.

In conclusion, Lafarge wants to maintain the ability to ship and receive materials via barge. We believe the Missouri River provides the most cost effective, safe, and environmentally sound way to do this. Lafarge supports any alternative that avoids a split navigation season or significant reduction in the length of the navigation season.

Lafarge North America Inc.
2200 Courtney Road; Sugar Creek, MO 64050
Office: (816) 257-3600 Fax: (816) 257-2116

Lanny Meng
29248 Hwy 59
Oregon, MO 64473
Duroc@southholt net

Hello, I am a fourth generation Missouri River Bottom farmer. I have farmed in the Missouri River Bottom for all of my life.

Holt County, Missouri is a representative county typical of a Missouri River Bottom county. The county has about 60,000 acres of cropland. The two primary crops farmed in Holt County are Corn and Soybeans.

Much of the Missouri River Bottom Crop land is among the best cropland in the world. The Missouri River Bottom farmers produce one of Society's most important products. FOOD. Without food no life can survive. Also the Missouri River bottom farmers produce ethanol an environmental friendly, renewable fuel source.

Why we are here today is about making a balance between the needs of society and the obligation of society as a whole to protect wildlife. Any change from the current management of the Missouri River will negatively impact Agriculture.

Other 6, 48

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I hope society will be able to satisfy the needs of wildlife while maintaining support for all stakeholders. Other 6

To return the Missouri River to its state at the time of Lewis and Clark would have a drastic impact on life in the Midwest. The consequences of the changes are so great that it would be hard to comprehend. Really life as we know it would end. Other 217

The management changes of the Missouri River cannot be a return to the past but a move forward to the future. New Science researched and engineering invented will be need to move the Missouri River to the future where all the Stakeholders can be satisfied.

Farming in Holt County as well as the rest of the Missouri River Basin needs to protected. The flood control and drainage in my area is designed for a river flow without a spring rise.

A spring rise will cause crop damage. The only question is the magnitude. Today in the short term we in the United States have a plentiful supply of food. But forecasts of exponential population growth, and linear food production growth show the surplus will not continue. The production of food is too vital to disrupt. With the loss of farmland to development and potential loss to river flow modification will only hasten the coming shortages of food. FC 8

2

So as we approach the changes in management of the Missouri River we cannot be happy with simple Solutions that do not satisfy the needs of wildlife and stakeholders. Both sides of this issue must work hard to generate new ideas to protect all parties. Other 10

The concerns of farming with a spring rise deals with reduced flood control and reduced drainage.

Connectivity of a river with the flood plain to a farmer is a disaster. Increased flow in the spring coupled with a rainfall event can raise the river to a level where a flood will occur. Even if there are no rainfall events the higher levels will disrupt interior drainage (drainage of excess water away levee protected ground). FC 8

In the spring farm crops are sensitive to flooding and saturated soil profiles. Planting times are critical to profitability of a farm. A delayed planting due to spring rise may make a profitable farm unprofitable. If the crops are planted; a flood or a saturated soil profile will negatively impact the profitability of a farm.

My great-great grandfather at one point slept with a plank leaned up against the side of the house. The reason for the plank was to warn him if the meanders of the Missouri River were to get too close the house, he would have time to exit. Today we have a stable river. My farm needs a stable river as my county and my state. Farmers have historically used farmland for security for a loan. With a meandering river collateral for a

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loan or tax base for the county would be uncertain. Changes in the Missouri River could have drastic impact on the rural economies.

Other 48

Most of the farmers in the lower Missouri River basin are family farmers. Family farmers have traditionally been the best stewards of the land. The economic costs of river management changes need to spread Society wide. The rural counties and farmers cannot afford to take all the cost of environmental change.

In Holt County we currently have about 18% of the land owned by public entities: US Fish and Wildlife (Squaw Creek National Wildlife Refuge), Missouri Department of Conservations, and the US Army Corps of Engineers. The tax and economic base of the county is negatively impacted by this public ownership. Very strong sentiment exits in this county against more public ownership. So new management plans must take into account this sentiment.

Other 70, 218

The US Army Corps of Engineers pays no local tax in Holt County. The Holt County Tax Collector told this fact to me. The fragile rural way of life cannot stand a lack of local support by the river system.

Holt County residents feel that they should a have a voice in River Management. People who do not live in the area cannot make changes in Missouri River Management.

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I am a sportsman and appreciated the benefits that recreation brings to community, but we cannot live in a swamp 12 months out a year while City people visit us 2 days a year wanting to control our resources.

FC 8

The Missouri River Basin Stakeholders all need to have a voice in the development of a new Master Manual. The procedure started by the Missouri River Basin Association had all the stakeholders at the table. Progress and understanding was accomplished. Different users learned to appreciated and understand others needs. Now the process has taken a drastic turn in the wrong direction. Heavy-handed negotiations on both sides of the issue are disrupting the orderly process of Stakeholders being heard.

Other 7, 61

My challenge to this group of scientists is not take the easy way out but to be inventive and innovative where all groups can have a win-win situation. Money is the common denominator in the plan. All players in the Basin need to cooperate for a better end. If all the interests in the Basin would use our political power for a common goal miracles can happen.

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U.S. Army Corps of Engineers,
Northwestern Division
Attention: Missouri River
Master Manual RDEIS
12565 West Center Road
Omaha, NE 68144-3869

I respectfully submit these comments on behalf of the MO-ARK Association for the record on the RDEIS, Master Manual Review, Missouri River.

The Missouri Main Stem River System is a system of dams created primarily for flood control and navigation. Some maintain that eliminating navigation is necessary to benefit the Missouri River environment. Respectfully, these caring people do not realize that navigation is more than a commercial enterprise, it is an environmentally sound mode of transportation and represents a flow regime that benefits the environment in many ways. These comments set forth some of the environmental benefits of navigation and the flow regime necessary to support it.

Nav 67

I. Navigation Reduces Air Pollution

"Missouri River Navigation Benefits: Incorporating the Effects of Air Quality Improvements," prepared for the U.S. Army Corps of Engineers, Missouri River Division, by the Tennessee Valley Authority (TVA), dated May 1997, states that air pollution impacts of Missouri River navigation are "profound" (page 23) and quantifies these impacts: "[A]vailable Missouri River navigation reduces the volume of emitted pollutants by nearly a million pounds a year." Page 18.

Nav 23

In sum, reduced pollutant emissions attributable to Missouri River navigation allowed for $2.7 million reduction in the expenditures necessary to preserve the same level of air quality based on 1994 traffic

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levels. Therefore, National Economic Development benefits owing to the provision of navigation on the Missouri are currently understated by more than $1.48 per ton.

Id.

As shown in the TVA report, there is an inverse relationship between air pollution and tonnage shipped by barge. "[T]o the extent that waterborne commerce reduces the consumption of fossil fuels, it simultaneously lowers the expenditures necessary to preserve air quality, thereby conferring benefits to the nation as a whole." (Page 1) This observation is supported by analysis of empirical data in the report.

Nav 6, 23

The TVA report continues:

There are three important conclusions that should be noted. First, any NED analysis that ignores the relationship between modal choice and pollution abatement expenditures significantly understates the value of commercial navigation. Even on the Missouri River, where traffic levels are modest and where diverted traffic would often re-enter the navigation system at St. Louis, the magnitude of savings attributable to greater fuel efficiency and lower per-gallon emission levels is remarkable.

Page 26. Further:

[A]ny policy changes that lead to reduced barge loadings or tow sizes could very easily eliminate the fuel and emissions advantage currently exhibited by navigation. For example, the operating conditions typically associated with minimum service-six barge tows and 1,200 ton

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loadings would increase the number of necessary [sic] boat trips by more than sixty percent.

page 27.

The Kansas City Metropolitan Area (including counties in Kansas and Missouri) violated the Clean Air Act standards for ozone in 1997. The exceedance recorded August 28, 1997, was a violation because the state had recorded three previous exceedances of the standards for ozone within the past three years in the Kansas City Metropolitan Area. The City of St. Louis, Missouri is currently designated a non-attainment area for the ozone standard pursuant to the provisions of the federal Clean Air Law, 42 U.S.C § 7401, *et seq.*" Non-attainment status will require restrictions on emission sources. The data collected on August 28, 1997, was analyzed and verified by the State of Missouri.

St. Louis is the principal alternative loading/unloading point for Missouri River basin commodities. Barges on the Mississippi River at St. Louis accommodate approximately 8 million tons of cargo per month.

In years when Missouri River Flows would restrict Mississippi River traffic, potentially one year in three with the change in the trigger point, the St. Louis metropolitan area would receive several hundred tons more of air pollutants than it would if there was no change in the trigger point.

Nav 23

Miss 32

The Kansas City metropolitan area will be adversely impacted by the change in the trigger point that has and will cause reduced tonnage to be shipped by barge. Since Kansas City t is a major rail hub, trucks and trains carrying tonnage that would otherwise be transported by barge will pass through Kansas City. The adverse impacts due to the

Nav 6, 23

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modal shifts described above are supported by tables 3.1 and 3.2 and the calculations of fuel consumption in the above-referenced TVA report.

In another report the U.S. Department of Transportation, Maritime Administration, concluded that the distance one-gallon of fuel can move one ton is 59 miles by truck, 202 miles by train, and **514 miles by water.** "Environmental Advantages of Inland Barge Transportation, August 1994, Figure 2, page 10. In terms of capacity, a 1,500-ton barge carries as much as fifteen 100-ton jumbo hopper rail cars or sixty 25-ton trailer trucks. *Id.* at Figure 1, page 9. *See also,* "Environmental Impacts of a Modal Shift," Minnesota Department of Transportation; Eastman, Samuel Ewer, "Fuel Efficiencies in Freight Transportation, June 1980.

II. Navigation Reduces Chemical Leaching

The Missouri River floodplain is intensively cropped in South Dakota, Iowa, Nebraska, Kansas and Missouri. In these areas, agricultural chemicals and fertilizers are applied to such cropland. When the River is controlled to foster navigation leaching of these chemicals into the water table is minimized. On the other hand, above normal flows, especially in the spring increase chemical leaching into the River.

WQ 30

In addition, higher releases than necessary to support navigation cause drainage outlet pipes to backup. In turn, surface runoff with topical chemicals is increased to the River.

III. Navigation Reduces the Use of Chemicals

Bottomland farms along the Missouri River in South Dakota, Iowa, Nebraska, Kansas and Missouri are among the finest farmland in the Nation. Most of this land is

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considered "Prime Farmland" as defined by the U.S. Department of Agriculture. When flows on the Missouri River are regulated to support navigation, bottomland farms drain properly and are productive. If higher than normal flows prevent drainage, especially in the spring, the bottomland will be converted to other uses. If such highly productive land is converted to other uses, more chemicals and fertilizers will be applied to less productive replacement land causing more pollution of inland waterways. WQ30

Congress does not approve of the conversion of Prime Farmland. The purpose of the Farmland Protection Policy Act "is to minimize the extent to which federal programs contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses, and to assure that federal programs are administered in a manner that, to the extent practicable, will be compatible with state, unit of local government, and private programs an policies to protect farmland." 7 U.S.C. § 4201 (b).

IV. Navigation Improves Human Health

When the River is regulated to support navigation, extremes are eliminated that damage or render useless Prime Farmland. With a growing population and a growing demand for food, the loss of Prime Farmland would have an adverse impact on human health. Other 9, 48

V. Navigation Improves Water Quality

When the flow of the Missouri River is regulated to support navigation, the water used for municipal water supplies, a beneficial consumptive use, is easy to treat resulting in higher quality drinking water supplies. If the flow of the Missouri does not follow a navigation curve, drinking water quality suffers. WQ 28

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For example, in the spring of 1996 at Kansas City, Missouri, the Missouri River had moderately higher flows than normal during the spring runoff. According to Frank Pogge, Director of the Water Services Department of the City of Kansas City, Missouri, these higher flows resulted in dramatic changes in the River water quality. The Total Organic Carbon (TOC) average for April through June was 57% higher than the previous year. In addition, there were 27 days in the spring of 1996 when the pesticide Atrazine was above 3 ppb versus 15 days in 1995, plus the level stayed higher, longer in 1996. The high levels of TOC decreased the efficiency of the Powdered Activated Carbon used for pesticide removal. Normally, the City expects greater than 50% removal but in the spring of 1996 only 25% removal was achieved. With non-navigation flows, these results would be replicated in many metropolitan areas along the River. WQ 28

VI. Navigation Helps Industry Maintain Compliance with the Clean Water Act

Low summer and late fall flows reduce the ability of industry and power plants located along the River to maintain compliance with National Pollutant Discharge Elimination System (NPDES) permits under the Clean Water Act. 33 U.S.C § 1362; 40 C.F.R. Part 122. With respect to power plants, thermal mixing can become a problem when the River is low as demonstrated this winter. With flows necessary to support navigation, water is available for mixing and damage to the river environment is minimized. WQ 1

VII. A Partial Spring Rise is Not Environmentally Sound

The flow regimes called for in the RDEIS under the alternatives cited except for those under the CWCP and the MLDDA will not benefit the riverine environment:

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[I]n many rivers, year-to-year differences in the timing and quantity of flow result in substantial variability around any average flow condition. Accordingly, managing for the "average" condition can be misguided. For example, in human-altered rivers that are managed for incremental improvements, restoring a flow pattern that is simply proportional to the natural hydrograph in years with little runoff may provide few if any ecological benefits, because many geomorphic and ecological processes show nonlinear responses to flow. Clearly, half of the peak discharge will not move half of the sediment, half of a migration-motivational flow will not motivate half of the fish, and half of an overbank flow will not inundate half of the floodplain. . . .

Other A, 36

Poff NL. et *al.*, 1997. The Natural Flow Regime, A paradigm for river conservation and management, BioScience Vol. 47, No. 11: 769-784, at 781.

What is more, the low flows in the summer in such alternatives will destroy the navigation channel. The scouring effect of the river under the CWCP will be lost and the channel will be filled with sediment. As a result, navigation, an authorized project purpose, will be eliminated from the Missouri River.

Nav 3, 12

Robert J. Vinoze

Robert J. Vinoze
Hall & Evans, LLC
1200 17th Street, Suite 1700
Denver, Colorado 80202

Attorney for the MO-ARK Association

Dated: November 6, 2001

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November 6, 2001

Oral Testimony:
Kansas City, Missouri Public Hearing
Revised Draft Environmental Impact Statement
Missouri River Master Water Control Manual
United States Army Corps of Engineers
Northwest Division

Good evening. My name is ~~Randy Asbury~~ Dan Cassidy and I'm ~~Executive Director~~ on the Board of the Coalition to Protect the Missouri River. This coalition represents a diverse group of twenty-eight agricultural, navigational, utility, industrial and business-related entities all of which are, or represent, Missouri River stakeholders. We support responsible management of Missouri River resources and the maintenance of congressionally authorized purposes of the river including flood control and navigation. We also support habitat restoration for endangered or threatened species to the extent that it doesn't jeopardize humans or their sources of livelihood.

The original mission of the Corps of Engineers, in relation to the Missouri River, was to support and promote navigation. Marian E. Ridgeway stated in The Missouri Basin's Pick-Sloan Plan that, "transportation was vital to the country's growth and the streams were the easiest and most dependable means for transporting large quantities of goods and services over great distances." Today, this statement still rings true.

The Flood Control Act of 1944 provides that the reservoirs function for greatest benefit to fish, wildlife and recreation, only to such degree that flood control, irrigation, water supply, power and navigation aren't seriously affected. I find it ironic that the original mission of the Corps is the least protected in the current RDEIS and that recreation and wildlife have trumped navigation. Navigation is the key river resource that bears the distinction of "most significantly impacted" by the five alternatives proposed in lieu of the CWCP.

Other 7

In previous testimony, CPR stated that because of the broad flexibility in river management created by adaptive management, we must assume the worst-case scenario will occur for both the spring rise and summer flow alternatives…the GP2021 option. The RDEIS Executive Summary states that flows "would be adjusted…if monitoring and data analysis indicate this measure is necessary for the species." The summary goes on to state, "The GP1528 and GP2021 options represent the full range of NEPA coverage for the Gavins Point Dam release changes." This statement indicates we're not approving a specific flow option but a range of flow options. To approve any Gavins Point flows is equivalent to approving all the flows. Under this scenario the GP2021 can occur just as easily as the GP1528. From an economic perspective, this is impossible for navigation to accept.

Other 3

The GP1528 flow is not feasible for navigation because channel changes resulting from the 93' flood have altered them to the detriment of navigation effectiveness. What were once minimum service level flows before 93' are no longer minimum service levels today. Approximately 100 dikes destroyed by the 93' flood have never been repaired. This eliminates GP1528 as a viable flow option since flows at or below minimum navigation levels are not economically justifiable.

Nav 5

Summer flows below minimum navigation will cause navigation to cease altogether on the Missouri River. It must be understood that navigators can't withstand a reduction of 72 days or 30% of their operating season year after year and be expected to remain economically viable. No one would expect any business to reduce their season by 30% and continue operations in a practical way. This would be like asking Wal-Mart to shut down from September 14 to December 31. It is unjustified and unfair to place the weight of species recovery on the shoulders of the river commerce industry. This also contradicts congressional language that requires navigation to be maintained as a congressionally authorized purpose of the river.

Nav 12

Summer flows reduced to below minimum navigation levels on the Missouri River will also negatively impact river commerce on the Mississippi River. Approximately 2/3 of the flow in the bottleneck reach of the Mississippi between Cairo, IL and St. Louis is provided by Missouri River flows in dry years. Summer flows between 21,000-25,000 cubic feet per second between June 21 and September 1 will not be sufficient to meet navigation needs in the bottleneck reach. The outcome of adverse consequences to both Missouri and Mississippi River commerce will dramatically impact transportation for agricultural and industrial uses. An economic ripple affect reaching far beyond navigation interests will occur if competition in the transportation industry is reduced. Farmers alone could realize a reduction of $.20 per bushel on their commodities due to transportation costs increases if navigation ceases to exist. With this in mind, I urge the Corps to continue with the CWCP.

Miss 4

PUBLIC HEARING COMMENT
MISSOURI RIVER MASTER MANUAL RDEIS
NOVEMBER 6, 2001

Contact Information:
Name: Bob Sherrick
Address: 10807 E. 205th St., Peculiar, Missouri 64078
e-mail address: bjsherrick@aol.com

My name is Bob Sherrick. I live at Peculiar, Missouri. I am speaking this evening as a private citizen with a deep interest in the Missouri River. Thank you for presenting this opportunity for me to do so.

The bountiful and diverse resources that Lewis and Clark found along the Missouri River in 1804-1806 have been severely diminished during the past two centuries. The process of degradation has greatly accelerated in the last few decades. The diversity of species and the abundance within the species have all sharply declined, with three species on the endangered list and others threatened with that status. **This is unacceptable**. Clearly, the CWCP has been very detrimental to the habitat of our native fish and wildlife.

Other 7, 178

The CWCP manages the river, **at taxpayer expense**, for the benefit of a few special interests, the most prominent being the barge industry and agribusiness. People and institutions may use the river to their benefit, but such use **must not** impair in any significant way the use and enjoyment by others. Thus, the CWCP should not be considered as a viable option.

Other 7

This national treasure does not belong to these special interests—**it belongs to all Americans** and the time has come for the management of the river to reflect this fact. The greatest benefit will be derived when the goal of river management is to restore many of the attributes of a more dynamic, free flowing river. Such a management plan, combined with restored natural areas along the river will:

- Promote a recovery process of native wildlife populations;

Other A

- Reduce severe flooding such as the '93 flood because a more natural river would have room to spread out without flooding developed areas;

FC 22

- Create a more interesting and accessible river;
- Expand recreational opportunities and their attendant economic benefits as Americans rediscover the wonderful attributes of a healthy river.

Rec 27,38, 42

As a retired statistician, I am well acquainted with the use of mathematical models to aid in making business decisions under uncertainty. It is obvious from looking at the Corps' analysis of potential impacts that the GP alternatives **minimally**, or **at most** have limited impact on current business users while significantly benefiting natural communities and recreational users. I also am aware that it is prudent to proceed cautiously until a good measure of the uncertainties involved is attained. Sound science and plain old common sense tell us that management that more closely mimics natural flows will improve native fish and wildlife habitat. Scientists already possess data from studies to confirm this, and they need to be able to gather and evaluate more data based on different flows to determine the most beneficial flow regimen. **Alternative GP 2021** is the one that allows the greatest range of flows and therefore more variables to research and evaluate.

Other A, 22

To those politicians who have spoken earlier, I say:
"**All** of your constituents will benefit if you will drop your opposition to these reforms in the management of the river. **If** you still believe these changes will pose unacceptable risks for agribusiness, you should concentrate your efforts on mitigation of the possible damages that might occur in the **one year out of three that the spring flow would be increased.**"

I fully understand and appreciate the difficult task the Army Corps of Engineers faces in determining what changes to make in the Master Manual. But, it is my sincere hope that you will make the changes that will offer a vision to the American people of what a river can be if **allowed** to behave more like a dynamic, natural system.

Other 7

Thank you.

Comments

By

Frank Lies, Director of Transportation

Farmland Industries, Inc.

Kansas City, Missouri

November 6, 2001

Good evening. I'm Frank Lies, Director of Transportation for the Farmland Cooperative System. Thank you for the opportunity to express our position this evening.

Farmland is a diversified farmer-owned cooperative focused on meeting the needs of its local cooperative- and farmer-owners. Farmland is owned by more than 1,700 locally owned and controlled cooperatives in 28 states and by 8,000 livestock producers. Nearly 600,000 farm families own the 1,700 local cooperatives that own Farmland.

Farmland and its joint venture partners supply local cooperatives with agricultural inputs, such as crop nutrients, crop protectorants, energy products and animal feeds. As part of its farm-to-table mission, Farmland adds value to its farmer-owners' grain and livestock by processing and marketing high-quality grain, pork, beef and catfish products throughout the United States and in more than 60 countries.

Farmland was organized in 1929 with the intent to help agricultural producers solve the perennial cost-price squeeze. In the effort to reduce the input costs to farm operations and to improve marketing conditions, this cooperative provided an opportunity for its agricultural producers to gain control of the processes of production and distribution of agricultural inputs and the marketing and further processing of their agricultural outputs.

During the last several years, Farmland has increased its movement of agricultural products via the Missouri River. We move fertilizer upstream to supply local cooperatives and their producer-owners – some product moves as far north as North Dakota. A portion of our producer-owners' grain is also shipped downstream for use in domestic milling or to feed the export market.

The tonnage we have moved on the river increased considerably once the navigation season returned to its original eight-month duration. Currently, Farmland alone will move sufficient dry fertilizer up the Missouri River to fertilize nearly 4.25 million acres of wheat -- that's more than 300,000 tons. Farmland moves in excess of 1.0 million tons of fertilizer annually on the Missouri/Mississippi River system.

General Commercial Navigation

During the early 1990's, commercial navigation on the Missouri River decreased because of two major reasons: 1) a shortened navigation season and 2) the flood of 1993. However, in recent years we have seen commercial navigation continue to increase, especially in those times when there is sufficient flow in the river.

Nav 27

Impact on Mississippi

One important fact we must remember is that the Mississippi River cannot be viable for commercial navigation river system without the flow of the Missouri. The Missouri River provides more than half of the water that makes up the flow of the Mississippi River. Currently a total of more than **85-90 million tons** of product is transported on the Mississippi River annually.

Miss 4

Impact on Agriculture

Agricultural producers from South Dakota and Minnesota to Louisiana and Mississippi depend on the Missouri/Mississippi River system to transport agricultural products at reasonable costs. The river system serves as a vital transportation link, efficiently moving agricultural input products deep into the heart of the Midwest and at the same time taking grain and other products to points where they can be processed or distributed around the globe.

Without the river system as a mode for transportation, transportation experts predict that overall average transportation costs will increase by at least $10 per ton when using alternative transportation means such as rail or truck. From experience, we can support this prediction. Whenever there has been a barrier to shipping product on the river system, rail and/or truck costs for our farmer-owners' products have increased at least $10 per ton. For the 1.0 million tons of product Farmland transports on the river system, this additional

Nav 6, 8

$10 freight per ton equates to $10 million of cost that must be absorbed by our producer-owners. This point alone causes great concern among our producer-owners and throughout the cooperative system.

The existence of viable barge, rail, and truck alternatives creates an important checks and balances system.

In Conclusion

It is for these reasons that the entire cooperative system supports the current water control plan on the Missouri River System. Allowance for a spring rise and changes in navigation seasons have proven to impede the growth of the river transportation system. Any change from the current plan will adversely impact the economic well being of thousands of agricultural producers and the rural communities they support. Other 6, 48

Thank you.

/3

CITY OF FOUNTAINS
HEART OF THE NATION
KANSAS CITY
MISSOURI

Water Services Department

Office of the Director

5th Floor, City Hall
414 East 12th Street
Kansas City, Missouri 64106-2776

(816) 513-2171
Fax: (816) 513-2085

U. S. Army Corps of Engineers
Northwestern Division
Attention: Missouri River
Master Manual RDEIS
12565 West Center Road
Omaha, NE 68144-3869

November 6, 2001

Gentlemen:

I am Mary Lappin, P.E., Assistant Director for Facilities Operation for the Kansas City, Missouri Water Services Department. I am here tonight to present comments on the Revised Draft Environmental Impact Statement (RDEIS) which addresses the Master Water Control Manual for the Operation of the Missouri River System (CWCP) and proposed alternatives.

The Kansas City, Missouri Water Services Department operates eight municipal wastewater treatment plants in the Missouri River drainage basin. Our three largest wastewater treatment facilities are located on and discharge directly to the Missouri River in accordance with NPDES permits issued by the Missouri Department of Natural Resources as authorized by the federal Environmental Protection Agency.

The RDEIS notes that "low-flow conditions are critical in the development of water quality-based NPDES permit limits." The RDEIS further states that the assimilative capacity of the receiving water is largely driven by the available "dilution" in the receiving water under the critical low flow conditions. While this is true, there are other factors which also impact the assimilative capacity of a receiving water. These include temperature and sediment load. We note that the thrust of many of the considered alternatives is to reduce upstream releases, and thereby reduce flows in the Lower River, during the summer months. While this would obviously reduce the "available dilution", the effect would be compounded by a corresponding increase in water temperature which could have a direct impact on certain NPDES permit limits (notably ammonia and biochemical oxygen demand (BOD)). Additional sediment loadings, with associated increases in BOD, during the contemplated "spring rise" could also have a negative effect on the assimilative capacity of the river. WQ 2

Our major wastewater treatment facilities currently have NPDES permits based on technology standards. The RDEIS correctly notes that technology based standards are generally easier to maintain than water quality based standards, and in fact, technology based standards are what our facilities were designed to meet. We are concerned that implementation of the contemplated alternatives in the RDEIS may prompt revision to these permits and additional capital costs to meet revised permit requirements. WQ 31

The federal EPA is considering a directive which would require development of Total Maximum Daily Loadings (TMDLs) for most water bodies. The Missouri and Mississippi Rivers have been prominently mentioned in this effort due to the hypoxic zone in the Gulf of Mexico. Even minor flooding of agricultural land in the Lower River zone due to a spring rise coupled with reasonably expected precipitation, will only aggravate this problem. Currently the Clean Water Act and NPDES permits are enforced only against "point sources" such as wastewater treatment plants, which represent only eleven percent (11%) of nutrient loadings for the entire Mississippi River basin. Thus, the impact of any additional "non-point" runoff caused by the spring rise will fall disproportionately on NPDES permit holders, including Kansas City, Missouri. WQ 25

On behalf of the Water Services Department, I thank you for this opportunity to comment.

Sincerely,

Mary Lappin, P.E.
Assistant Director
Facilities Operation

110601 US Army Corps of Engineers 2

November 6, 2001

Oral Testimony
Kansas City, Missouri Public Hearing
Revised Draft Environmental Impact Statement
Missouri River Master Water Control Manual
United States Army Corps of Engineers – Northwest Division

Good evening. Thank you for the opportunity to speak with you and thank you to the Corps of Engineers for holding these public hearings.

My name is Ron Gibson. I am a soybean and corn farmer from Norborne. I farm more than 4500 acres with my son. I am a board member of the Missouri Soybean Association and a national director for the American Soybean Association. The Missouri Soybean Association is a membership organization made up of nearly 1,500 soybean farmers from across the state.

We are opposed to the higher reservoir levels in the Upper Basin. Increased reservoir levels only reduce the water commitment to all Lower Basin states, including Missouri. More water in the reservoirs would leave less space for flood control storage and increase the risk of flooding in Missouri. FC 13

I farm in the flood plain and inland drainage is a problem for me. I raise 4,000 acres of corn and soybeans on the river bottom, so I have a lot to lose with the revised water control plan. We continuously battle drainage issues with the Missouri River without additional flow management.

There was a point in time during the last four years that the Missouri River lacked less than one foot from running over my levee. This rise was caused by local rains in the Kansas City area. With a spring rise added to this, I know I would have been in trouble. I do not have the time or money to rebuild levees because of man-made floods. FC 8

I farm land that borders approximately 5 ½ miles of the Missouri River. With all the rain we had this spring, we had to keep the Levee District pumps running non-stop for over a

week to keep water out of the fields. Indivdual farmers can not afford pumps to remove the rainwater and seepwater from their fields.

FC 8
IntD 8
GW 7

It takes 10-11 days to see the difference in water levels in St. Louis and probably around 7 to8 days where I live. Precise weather conditions cannot be forecasted 8-10 days in advance. Once the water is released it cannot be retracted.

Spring flooding keeps farmers out of their fields during the planting season, and higher groundwater levels reduce yields, therefore having a significant negative impact on Missouri's bottomland farming community.

Missouri agriculture already experienced nature at its worst with the floods of 1993. We do not need to put our agricultural bounty in danger again. It is impossible for us to support any alternative that proposes a 3 – 4 foot spring rise that suggests further risk to our crops. There is no need for government enforced floods.

FC 8
IntD 8
GW 7

I have serious concerns that the current proposals for expanded spring releases could have adverse effects on my bottomland acres, including increased flood risk, higher groundwater levels and inadequate drainage throughout the lower basin.

Besides flooding, the proposed management plans would have a negative impact on navigation. Reduced summer flows would substantially hinder barge traffic on the Missouri River. We export nearly 50 percent of Missouri soybeans, therefore benefiting producers and the overall Missouri economy. And, now the Corps is threatening this valuable economic resource.

Nav 12

The Missouri Soybean Association does not support a spring rise or reduced summer flow. We are forced to support the current water control plan as the only viable alternative proposed. The potential consequences of increased flooding is disastrous. The so-called 'controlled flooding' is an unthinkable option that threatens thousands of acres in Missouri. It would allow the river to flood areas that are key to agricultural production.

Other 6, 48

A spring rise is unwarranted and unscientific. It threatens farms and towns with increased risks of flooding and financial losses through reduced internal drainage as well. The reduced summer flows would end navigation on the Missouri, and threaten barge traffic on the Mississippi River as well.

Other A

Please make Missouri's agricultural community a top priority as you determine the best plan of action for the Missouri River. Don't let Missouri farmers become an endangered specicies

Thank you.

TALKING POINTS

- ~~My wife and I are from this area, and for the past 2-1/2 years,~~ we have ~~gone to English Landing Park in Parkville **every day**, almost without~~ fail.
- ~~W~~e urge the Corps to adopt the Flexible Flow Alternative (GP2021).
- Flooding is not and will not be caused by a spring rise as proposed by the Flexible Flow Alternative; catastrophic flooding is caused by increased runoff due to a larger proportion of impervious surfaces and more development in the floodplain, including filling and isolation of wetlands which can absorb floodwaters. All of the GP alternatives provide 99 percent of the flood control benefits provided by the current operation plan, according to USACE analysis.
- Management of the Missouri River as a barge navigation channel is inefficient. ~~Anecdotally, the greatest number of tugs we have **ever** seen in one day is two, and the greatest number in a week is not likely higher than four~~. According to USACE and USDA, Missouri River barges only move about 0.3 percent of all the grain harvested each year in NE, IA, KS, and MO. Furthermore, according to USACE, 80 percent or more of what barge traffic there is moves before July and after August, so a split navigation season as envisioned by USACE is logical and appropriate. On the other hand, recreation already generates more economic benefit than navigation, and this phenomenon would be more pronounced with any of the GP alternatives.
- The Missouri River Natural Resources Committee summarizes the science of the historical seasonal flow level and volume of the river (the hydrograph) by noting that "elements of the historical hydrograph mimicked by [the recommended flow changes] include higher flows through mid-June and lower flows from mid-July through August."
- The GP2021 option results in a 74 percent increase in tern and plover habitat over the current plan. Furthermore, state wildlife agencies, FWS biologists, and the USACE have concurred that increased spring flows are needed to provide a reproductive cue for sturgeon.
- On a personal level, management of river flow to enhance recreation is esthetically preferable. On an ethical level, management of flow to prevent the extinction of these threatened & endangered species is critical. Extinction is FOREVER. We must not forget this point; we must remember to be advocates for those interests which are powerless. We must not adopt a flow management plan which is manifestly fatal to threatened & endangered species. We urge USACE to adopt the Flexible Flow alternative.

William Gresham
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15

BRINGING RIVERS TO LIFE

American Rivers
FOUNDED 1973

Official Testimony of Jamie Mierau, Outreach Specialist & Conservation Associate
American Rivers
Army Corps of Engineers Missouri River Public Hearing
Kansas City, Missouri
November 6th, 2001

Good evening. My name is Jamie Mierau. I am here as a representative of the organization American Rivers. American Rivers is a national non-profit river conservation organization, founded over 25 years ago, for the purpose of protecting and restoring our nation's rivers. Watchers of C-SPAN may have gained some familiarity with our efforts through the viewing of our annual presentation to the United States Congress. Each year, American Rivers identifies and attempts to focus the attention – and action – of our nation upon a dozen or so of its most critically important endangered rivers. This year, the Missouri River is at the very top of that list.

Though a Colorado native, I am fortunate to still have family members in Nebraska. I learned about the Missouri River and its importance through them, and am glad to be back in the basin working on an issue of vital importance to everyone in the seven states that the Big Muddy runs through, as well as everyone across the nation.

My job as an Outreach Specialist enables me to "keep my finger on the pulse" of our organization's more than 30,000 supporting members. I can thus assure you that they – as well as all of the professional staff at American Rivers – want firstly to thank you the Corps of Engineers for its careful appraisal of the changing circumstances and public attitudes with regard to the Missouri River – and secondly, to make it known that they throw their full support behind the Corps' proposed Flexible Flow alternative (GP2021). It does not give us conservationists everything that we might wish for – but it is a reasonable compromise – and strikes a fair balance between and among all the conflicting needs and the varied interests of the great country. Other A

My colleague, Missouri River specialist Chad Smith, will provide you with more detailed comments during the public comment period, so I will limit myself to emphasizing a few general points in support of the Flexible Flow alternative.

The Flexible Flow alternative provides a modest way to help fish and wildlife without disrupting "traditional" uses of the river. It is the only alternative proposed by the Corps that fully captures the recommendations of the United States Fish and Wildlife Service. The Flexible Flow alternative will afford the Corps the authority and flexibility to prevent the extinction of three species – the piping plover, the interior least tern, and the pallid sturgeon – while boosting populations of other species like the sauger, smallmouth bass, and other game species. It will EnSp 3

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support recreation and tourism without overly burdening other uses of the river. In simple terms, better flows equal better fishing, more tourism, and stronger local economies. Rec 10,38

The barge industry and certain agricultural interests have raised concerns about skyrocketing shipping rates and catastrophic flood events. Sound scientific evidence proves that these concerns are not supported by facts. The Corps of Engineers' **OWN** analysis shows that the Flexible Flow alternative will provide flood control – increase overall hydropower benefits – support Missouri River navigation at key times – increase support for Mississippi River navigation – **AND** protect floodplain farmers.

I thank you for the opportunity to speak on behalf of American Rivers and for our 30,000 members from the Missouri River basin and nationwide. They realize, just as you do, that the Master Manual, a document written in the 1960s, no longer fills the needs of the 21st century. The time has come to begin managing the Missouri River to meet the basin's current economic **AND** environmental needs.

Thank you.

16

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Attorney at Law
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Statement on behalf of the Kansas Chapter of the Sierra Club at the public hearing, held by the U.S. Army Corps of Engineers, on the Revised Draft Environmental Impact Statement (RDEIS) on the Missouri River

Hilton Kansas City Airport

November 6, 2001

My name is Charles Benjamin and I am an attorney based in Lawrence, Kansas. I am appearing before you this evening on behalf of one of my clients - the Kansas Chapter of the Sierra Club. The Executive Committee of the Kansas Sierra Club contracts with me to perform a variety of tasks for the 3,700 members of the Kansas Sierra Club including lobbying the Kansas legislature, participating in rulemaking by state and federal administrative agencies, education on environmental issues in Kansas, community organizing and litigation. I am appearing at this public hearing to make just a few brief comments, on behalf of the Kansas Chapter of the Sierra Club, about the Revised Draft Environmental Impact Statement (RDEIS) on the Missouri River published by the U.S. Army Corps of Engineers on August 31, 2001.

* The current status quo management of the Missouri River is bad for people, and for fish and wildlife. It has given us endangered species, declining populations of many other native species, and reduced recreation and tourism opportunities. Other 7

* The recommendations of the Fish and Wildlife Service are a modest way to help fish and wildlife without disrupting "traditional" uses of the river. The Corps' own analysis shows we can still provide flood control, hydropower, support for Missouri River navigation, increased support for Mississippi River navigation, and protect floodplain farmers.

* The "Flexible Flow" alternative (GP2021) is the only option now on the table that fully captures the recommendations of the Fish and Wildlife Service. It would give the Corps the authority and flexibility to prevent species extinction and support recreation and tourism without unduly burdening other uses of the river. Other A

* The "Flexible Flow" alternative will give the Corps the ability to respond to biological monitoring, water conditions, and other factors in an adaptive management approach to Missouri River dam operations. Other 10, 119

* Under the current system, the interests of Montana and other upper basin states receive last priority. It's time to strike a better balance between the needs of all the states in the Missouri River basin. Other 198

* Without flow changes on the river, at least three species will go extinct, and more will likely be listed as threatened or endangered. The overwhelming body of scientific evidence points to the need for both habitat restoration AND flow changes to help fish and wildlife survive. EnSp 7

* The Missouri is everyone's river, and it needs to be managed with this in mind. For too long, the management of the Missouri River has been for the benefit a single industry - navigation. The evidence is clear that managing the Missouri River for navigation purposes provides little to no economic benefit for the basin. Other 7

* It's time to manage the Missouri River to meet the basin's modern
environmental and economic needs. The Master Manual, written in the 1960s, simply does not fill the needs of society in the 21st century.

* People need to be able to get out and enjoy doing the kinds of things you should be able to do on a river like the Missouri - hunting, fishing, camping, hiking, boating, etc. Those interests, and the economic benefits they produce, are just as important (if not more so)as barge navigation. Rec 10,,35

* The bicentennial of Lewis and Clark's Voyage of Discovery is approaching. We need to show the rest of the nation, and especially our children, that we are good stewards of the river that carried them on their historic journey.

Testimony to Corps of Engineers' Hearings on Revised Draft Environmental Impact Statement Missouri River Basin

Kansas City, MO November 6, 2001

Good evening. My name is Joe LaMothe and I am Executive Vice President of Mid-West Terminal Warehouse Company located here in Kansas City. Our Company operates one of the largest Public River Terminals serving the Missouri River Basin.

The Port of Kansas City, consisting of both public and private terminals, provides the entire region with access to cost effective, efficient and environmentally friendly barge transportation. Bulk agricultural product, structural steel, coiled steel, industrial and road salt, cement related product, landscaping material among other commodities are just a few examples of the types of product we have handled at our terminal in the past year.

Mid-West Terminal is strongly in favor of maintaining the Current Water Control Plan for the Missouri River. As has been documented in previous discussions on this issue the spring rise and split season components of the Modified Conversion Plan and the four Gavins Point Other 6

Plans would end commercial navigation on the Missouri River. As a result, with the exception of the Current Water Control Plan, all the proposed river operation alternatives would most likely put Mid-West Terminal's River Terminal and all other forms over river commerce out of business.

The loss of navigation as a transportation alternative to our region would result in job loss, both direct and indirect, and result in higher overall transportation costs to businesses and individuals all throughout the basin.

Nav 6, 8

In addition, the increased chance for flooding, which we unfortunately saw the devastating affects of in 1993, that accompanies the spring rise scenario, will put what is left of our businesses and our economy at further risk.

FC 8

In preparation for tonight's hearing I have been in contact with the Greater Kansas City Chamber of Commerce, and although their representative could not be here tonight due to a scheduling conflict, Doug Luciani and Sean Henessee of the Chamber asked me voice the Chamber's opposition to any changes to the Current Water Control Plan on the grounds I have just outlined. They will be submitting written comments on this subject later this week.

Before I close I would like to voice my opposition to changing the Current Water Control Plan on another level, that of a Kansas Citian and a citizen of the Missouri River basin. The affects of changes to the current water control plan include increased flooding for lower basin states, drinking water supply issues, basic water quality issues, energy production issues to name a few. As a lifelong resident to this area and as a father raising two young children in our community, for my children's sake and my own, I am supportive of species habitat restoration. However, I am supportive of species restoration as long as it does not interfere with the quality of life, safety and economic vitality and opportunity of our future generations.

Other 6, 23, 70

With these points in mind I urge the Corps to continue the Current Water Control Plan for the Missouri River basin!

Thank you for your time this evening.

Charles J LaMothe (Joe)
Mid-West Terminal Warehouse Company, Inc.
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MO-ARK

THE MISSOURI-ARKANSAS RIVER BASINS ASSOCIATION
SERVING THE MISSOURI RIVER VALLEY FOR
WATER SUPPLY, FLOOD CONTROL, SHIPPERS AND OPERATORS

U.S. Army Corps of Engineers
Northwestern Division
Attention: Missouri River
Master Manual RDEIS
12565 West Center Road
Omaha, NE 68144-3869

November 6, 2001

Gentlemen:

I am Franklyn W. Pogge, P.E., and current President of MO-ARK (1). I am here to present brief comments on the Revised Draft Environmental Impact Statement (RDEIS) which addresses the Master Water Control Manual for the Operation of the Missouri River System (CWCP) and proposed alternatives. My comments tonight will be in summary form as MO-ARK will be submitting extensive written comments on all the alternatives contained in the RDEIS.

MO-ARK has requested the President to direct the U.S. Army Corps of Engineers to reinitiate Consultation with the U.S. Fish and Wildlife Services under the Endangered Species Act for operation of the Missouri River Main Storm System. This request was made as MO-ARK feels the "reasonable and prudent alternatives" identified in the Biological opinion of FWS would eliminate a project purpose and thus would be illegal. (2)

Other 204

The Corp plan calls for a Spring Rise in the river once every three years between May 1 and June 15. This could result in an increase of up to 4 feet in the River during farm planting seasons. Once water is released from Gavins Point it could not be recalled. It takes the water approximately 10-11 days to travel from Gavins Point to St. Louis. Weather cannot be forecasted 10 days in advance. This is a proposal for a "Controlled Flood" on the Lower River which would impact flooding risk, internal drainage, farming, and water quality.

FC 8
IntD 8
GS 7

Included in the Corp plan is a reduction of Summer River flows. The potential starting point would include reduction of flows from June 1 to September 1 which would equal the minimum service for navigation and adjusted lower to 25,000cfs from June 21 to July 15, and 21,000cfs to August 15, followed by 25,000cfs to September 1. These releases would not be adequate to provide for navigation on the River during key periods. In addition, as summer releases are lowered, spring or fall releases would have to be increased to evacuate water from the reservoirs. This would bode the end of navigation on the Missouri River. The industry has advised they cannot afford to operate under a split-season scenario. This alternative also has severe water quality impacts to be addressed later in this presentation.

Nav 3, 12

Included in the Corp plan is an increase in reservoir levels in the upper basin. This would reduce the commitment of water to all the lower basin states including Missouri. There would be less water for irrigation, navigation, drinking water supply and utility operations. More water in the reservoirs would leave less room for flood control storage.

WS 11

P.O. BOX 35024 KANSAS CITY, MISSOURI 64134 ❖ VOICE MAIL / FAX (913)438-4397

The Corps defines adaptive management as "an overall strategy for dealing with change and scientific uncertainty." They go on to state that this "strategy could be incorporated in any water control plan for the Mainstream Reservoir System." This strategy grants far-reaching authority for agencies to adjust management plans with relatively little citizen input. At a recent legal conference the general consensus was that it would violate NEPA. We do not see any way to reconcile adaptive management with NEPA's guarantee that the public have a meaningful opportunity to comment on all major federal actions significantly affecting the quality of the human environment. The AOP process is very informal and it all happens too fast for any real public input.

Other 3, 10

Species restoration should be accomplished by modifying existing public lands to improve more habitats for fish and wildlife as long as it does not do harm to human lives and livelihoods. Threatened and endangered species will benefit more from off-channel habitat than the flow changes found in the corps proposals. The Corps has our most recent comments from noted experts on the efficacy of river pulses vs. off-channel habitat. (3)

Other 70,124, 218

Water quality is an extremely important issue when reviewing the RDEIS alternatives. The RDEIS in 7.4.2 and 7.4.3 states that water quality decreases under some of the options. We find it ironic that the RDEIS in Table 7.4.2 resorts to 7Q10 flows of 9 kcfs to assert that no change for any alternatives relative to the CWCP. We are in the throes of a national debate over Total Maximum Daily Loads (TMDL) and the recalculation of TMDLS for all rivers.

WQ 19

The biological opinion itself alludes to the Spring Rise and how it will introduce and transport organic matter from floodplains and introduce turbidity including debris and nutrients. Debris and nutrients present water treatment consideration in the production of potable water.

From the water supply and wastewater perspective, warmer river water from low summer flows poses other unique problems those in the business must consider. Low flows in late summer at higher temperatures encourage growth of algae creating treatment problems for the potable water suppliers.

Wastewater utilities may be affected through their NPDES permits. Higher temperature waters have less dissolved oxygen, which would affect the allowance under the TMDL calculations. This was previously recognized in a DEIS summary which stated "there are no data to verify whether there could be problems in summer months in the reach downstream from Sioux City…"

Further Table 7.4.2 recognizes the effects of low flows on thermal water quality standards stating "powerplants may need to consider cooling ponds or towers to reduce thermal discharges into the river".

WQ 1, 2, 28, 31

Not only power plant discharges may be effected. Municipal and industrial intakes are at fixed elevation. Low flows may require extensive modifications.

Gentlemen, MO-ARK provides these comments in a spirit of providing information from decades of experience of its members. We thank the Corps for allowing us to present them.

Very truly yours,

Franklyn W. Rogge
President, MO-ARK

1 The MO-ARK Association is a voluntary, non-profit association which promotes flood control, navigation, irrigation, recreation, fish & wildlife, environment, conservation and beneficial use of land and water resources within the Missouri River Basin and the portion of the Arkansas River Basin that runs through Kansas and Missouri. Its membership consists of organizations, associations, companies, governmental units and individuals.

2 50 C.F.R. & 402.02.

3 MO-ARK Communications to the Northwest Division October 9, 10, 2000

Waters Farms, Inc.

Highway Z
Missouri 64077
[illegible]

November 6, 2001

TESTIMONY:

KANSAS CITY, MISSOURI PUBLIC HEARING
REVISED DRAFT ENVIRONMENTAL IMPACT STATEMENT
MASTER WATER CONTROL MANUAL
MISSOURI RIVER
REVIEW AND UPDATE
UNITED STATES ARMY CORPS OF ENGINEERS
NORTHWEST DIVISION
COLONEL DAVID A. FASTABEND, COMMANDER

Good evening. My name is Tom Waters. I live South of Orrick, Missouri in the Missouri River bottoms. Colonel Fastabend, I wear many hats related to the Missouri River. I am a founding Board Member, and currently serve as Chairman of the Missouri Levee & Drainage District Association, the Vice-President of the Missouri-Arkansas River Basins Association (MO-ARK), a founding Board Member and serve on the Executive Board of the Coalition to Protect the Missouri River, the President of the Tri-County Drainage District of Ray, Clay and Jackson Counties in Missouri, the President of the Ray-Clay Drainage District in Ray County, Missouri, and I serve as a Board member of the Missouri Valley Drainage and Levee District in Ray County, Missouri. In addition, I am a member of the Missouri Farm Bureau, Missouri Soybean Association, Missouri Corn Growers Association and Missouri Cattlemen's Association. I farm 3500 acres of Missouri River bottomland and I have some involvement with the Missouri River on an almost daily basis.

I have attended Corps meetings, hearings, and workshops. I have participated in the Missouri River Basin Association (MRBA) stakeholders meetings and attended many MRBA Board meetings. I have spoken to and participated in numerous meetings and forums relating to the Missouri River.

Colonel, needless to say, I have learned a lot about the Missouri River over the past ten plus years. I have learned about the reservoir system and even visited four of the six mainstem dams. I have learned about the Endangered Species Act and how it can influence this process. I have learned about the political process

and the politics that play a huge role in the decisions involving the river. In short, I have been a student of the river for a long time and continue to seek a better understanding of the issues surrounding one of our nation's vital resources. Yet, I still fail to understand why the U.S. Army Corps of Engineers would consider placing human lives and property at risk with an unnecessary Spring Rise.

Other 48

Tonight, instead of listing all ways the Spring Rise and Split Navigation Season harm our economy and put my personal business at risk, I want to offer suggestions for protecting the endangered species in and along the river without doing harm to the people and communities along the river.

Colonel, the Endangered Species Act allows for mitigation measures to be taken to help protect and recover an endangered species. Our Federal and State governments own Hundreds of Thousands of acres of land along the Missouri River. These public acres should be put to use to help save the Pallid Sturgeon, Interior Least Tern and Piping Plover.

EnSp 1

Instead of purchasing the land and letting it set to grow up in trees and brush, the Corps of Engineers, U.S. Fish and Wildlife Service or State agency owning the land should develop the land into areas for the endangered species. Places should be created for fish to get away from the river channel and into backwater areas to spawn. Structural measures need to be taken to create these places of Pallid Sturgeon friendly habitat. Quiet spawning areas for Missouri River fish can be created without additional flows from the Gavins Point dam.

We can create manmade habitat with the lands owned by the state and federal governments without doing harm to adjacent landowners. Land purchased by the federal government should be purchased for the purpose of saving endangered species. If the Least Tern and Piping Plover need sandbars for habitat, let's build them sandbars. So what if they are manmade sandbars. If the goal is to save these species, a manmade sandbar can provide the same or better habitat for these birds. Again, this can be accomplished without altering the flow of the river.

EnSp 2,5

I believe the Corps of Engineers needs to better identify the options available to them to protect and help recover the endangered species found in and along the Missouri River. In its biological opinion, the U.S. Fish and Wildlife Service mandated many prescribed actions for the Corps to follow.

Colonel, I say, the biological opinion is an opinion and should be treated as such. During these public hearings you have heard and will hear many other opinions. I hope you will give the opinions of those whose lives will be the most affected by your decisions as much consideration as you have the U.S. Fish and Wildlife Service's opinion. By listening to the people and communities represented here tonight, you must realize there are other options available to saving the endangered species.

Open up public lands for the endangered species. You are the Army. Build new oxbows on public lands. Create areas of shallow warm or deep cold water habitats where needed. Build areas of sandbars for birds to nest. These things can be accomplished with manpower, machinery and the designs of the best engineers in the world. Colonel you have all three at your disposal. Most importantly, these things can be done without flooding farmers with a spring rise or ending navigation on the Missouri River with reduced summer flows.

Other 70, 124, 218

Colonel, I made a vow and commitment to do whatever I could to protect my family, my farm and my community from the Missouri River. I have taken this vow seriously and tried to be a full participant in the master manual review process. I hope you and the federal government will make the same vow to protect the farm families, land, businesses, cities and communities along the Missouri River. Stay with the Current Water Control Plan and use mitigation measures on public lands to protect our endangered species. Thank you.

Other 6

CITY OF FOUNTAINS
HEART OF THE NATION
KANSAS CITY
MISSOURI

Water Services Department
"The Regional Water Authority"
Engineering Services

324 East 11th Street
Suite 900 Oak Tower
Kansas City, Missouri 64106-2417

Area Code-816	
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November 6, 2001

US Army Corps of Engineers
NW Division
Attn: Missouri River Master Manual RDEIS
12565 W Center Road
Omaha, NE 68144-3869

Gentlemen:

COMMENTS ON CORPS OF ENGINEERS PROPOSED PLANS TO MODIFIY THE MASTER WATER CONTROL MANUAL (i.e. Flow Management Plan for the Missouri River)

KCMO Facts: Kansas City is split by the Missouri River and all stormwater runoff eventually flows into this river. We have approximately 160 square miles on the north side of the river and 160 square miles on the south side. We have 35 watersheds in the City with a large number of streams, creeks, ditches, levee, pipes, conduits, and flood control structures.

Our Concern: The Kansas City Missouri Stormwater Utility Division is opposed to the proposed Gavins Point Dam Release Changes that would cause a Spring Rise in the Missouri River at Kansas City of <u>four feet above normal.</u> The potential negative impacts to our city are as follows:

FC 8

1. **Increased Risk of Flooding :**
   - The weather is very unpredictable during the springtime in Kansas City. We have had more than one 100-year floods and even 500-year floods, lately. We can receive as much as 8 in/hr of rain intensity during the spring of the year.
   - Recent history of high-water events, such as the Flood of 1993
     (Note: this concern has resulted in a COE project to study the adequacy of the elevation of the 7 levee in Kansas City and determine if they should be raised. The levees/floodwalls in Kansas City were within a foot or two of overflowing in 1993.)

Possible Impacts of Flooding include:
- Property damage
- Economic impacts due to loss of jobs
- Loss of life

Very Truly Yours,

M. A. Almai

M. Ali Almai
Manager, Stormwater Utility Division

Hello, my name is Linda Waters and I live about a mile from the River at Orrick, MO. I am a mother, grandmother, retired teacher, and a 6th generation farmer and land owner on the River; that is the order in which I think of myself.

I have a story to tell it won't take long so please bear w/ me. If my farmer grandfather were alive today he would say to our family, "You have been good stewards of the land God gave us and I'm proud of that. Continue to keep your eye on the River. By the way what was that crop which was harvested last week across the road from your house?" That crop was soybeans. This grandfather died before I was born.

My other grandfather (I knew him well) was a farmer among other things. He would say to me today, " You have taken good care of the land. The new 210 Hwy. is wonderful. Of course, it took some land, and that's all right because things change and we needed that highway, but _____it you can't see the River from the road." You see he loved the River and before he was ever a farmer, he was what I call a River Man . He met and married my grandmother in Glasgow while working on the River and years later owned and operated a ferry boat between Orrick and Independence.

Today the grandfather I knew, would rant and rave (because that was his style) about a spring rise saying we have enough trouble in the spring w/o an artificial spring rise in the River. Let it stay the same. Keep the Water Control Plan like it is now. He would be opposed to reduced summer river flow because he believed the River was for navigation and to produce electrical power and drinking water. River traffic is the cheapest way to move those soybeans which my farmer grandfather never heard of. As for supporting habitats for endangered species, surely, he would say we can support those animals AFTER taking care of people and the land which feeds them. There are people here this evening much wiser than I who can decide ways to protect both people and animals.

FC 8

Nav 7

EnSp 3

I would agree w/ my grandfather,

JEFFERSON CITY, MISSOURI TRANSCRIPT— NOVEMBER 7, 2001

128

ROBERTS & ASSOCIATES BY TOM ROBERTS, RPR, CCR

STATE OF MISSOURI)
) ss
COUNTY OF PETTIS)

I, Thomas Roberts, Certified Shorthand Reporter and Notary Public of the State of Missouri do hereby certify that the foregoing transcript is a true and correct transcript of my original stenographic notes.

I further certify that I am neither attorney or counsel, nor related to any party to said action, nor otherwise interested in the outcome thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal this 12th day of December, 2001.

Thomas H Roberts

THOMAS ROBERTS

DUE FROM: Corps

THOMAS H. ROBERTS NOTARY PUBLIC COSTS

THOMAS H. ROBERTS
NOTARY PUBLIC - STATE OF MISSOURI
PETTIS COUNTY
MY COMMISSION EXPIRES AUG. 4, 2003

COVERING MISSOURI - ST. JOSEPH TO ST. LOUIS 1-800-633-8289

MFA INCORPORATED
201 Ray Young Drive
Columbia, MO 65201-3599
Phone: (573) 874-5111

November 6th Corp Meeting - Statement of Record

My name is Bruce Hanson. I am Vice President of Transportation & Distribution of MFA Incorporated. MFA is a Midwest agricultural cooperative. MFA serves the economic interest of over 50,000 member/customers in several Midwest states. The welfare of our members is influenced by their ability to procure, produce and market outputs.

The costs for crop inputs and the price received for crops produced depend significantly on transportation costs. Additionally, market access is highly driven by transportation alternatives.

I would like to comment on the Corp of Engineers' proposed plan for managing the operation of the Missouri River.

At stake is the economic well-being of area farmers and communities, the future of viable river navigation, flooding of Missouri River bottom land, safe dependable drinking water, and power generation.

Page 1

FLOOD CONTROL

Higher spring flows coupled with normal rain fall will adversely affect millions of prime farming acreage. As water in the Missouri rises, smaller rivers and tributaries will also rise. The resultant higher water tables and soil moisture will make even non flooded land uncropable. This acreage is among the most productive, high yielding land in the area and will be lost due to excessive moisture. The loss of over 1.4 million acres of prime farmland to create 164 acres of habitat is far too great of an economic burden to be considered. GW 16, 17

We have a naturally occurring spring rise every spring and four feet of additional water will ensure a flood event is probable each year. Like a bullet fired from a gun, once water is released it can not be taken back. Out of control it continues on its course, sometimes with devastating results. FC 8

Page 2

TRANSPORTATION

There can be no doubt that a significant adverse impact will be had on transportation. Higher spring flows coupled with normal rainfalls will cause interruptions in the navigational process, and add to the cost of transporting commodities and equipment upstream. Delays in transit, higher fuel consumption and increased prices paid for transportation will impact Missouri agribusinesses and our economy as a whole. Nav 12, 23

Lowered water levels later in the season mean less tonnage can be hauled, higher per ton costs incurred and reduced efficiency in transporting vital goods. Each 1 inch loss of draft reduces carrying capacity over 1%. A 6" draft reduction reduces the tonnage by 6½ %. That's equivalent to 1 rail car or 4 trucks. It also increases freight costs by 6-10%. Put simply it costs more to haul less! Any further reduction in flow due to drought would devastate river transportation. This, coupled with the reduced navigational season can only exacerbate the logistical problems faced by those many who depend on the Missouri River for their transportation needs. Nav 12, 23, 62

Page 3

The future of the marine towing industry on the Missouri is also at stake. The reduction in the navigational season, lowered draft and tonnage capacity and higher spring operating costs jeopardize the river operator's future and those who depend on them. Increased costs coupled with reduced revenues will sink river navigation. This key component, if lost, would likely not return. Ripple effects would be felt in many ways. Nav 12, 23

Without a viable, competitive river transport system, other modal options if available, would become more costly. This fall, rail and truck capacity was unable to handle the grain harvest. Rail and truck freight charges are kept in line due to water compelled rate levels. Freight costs would increase by one third above today's rail costs. The change in freight costs from water usage to rail would leap by more than 55%. This could increase MFA's freight costs by more than $20,000,000.

The resultant diversion of traffic to other modes is not in Missouri or our countries best interest. The net result is to move traffic via less efficient, higher cost and more polluting means. Our roads are already congested and dangerous. Increased costs to repair road/bridge damage will further strain river basin states' budgets.

Page 4

Another issue is one of capacity. Most railroads are already experiencing shortages of equipment motive power and even labor. It is often times extremely difficult to receive required equipment under current circumstances, much less under the increased demand that would be encountered without barge availability. One standard barge holds the equivalent of 15 rail cars or 60 trucks. Shifting tonnage to rail or truck translates into thousands of additional units that are not currently available. Nav 23

WATER QUALITY

WQ 12
WS 11

Water supplies and quality/safety issues also are under siege. Erratic water levels make supplying dependable, safe drinking water difficult. Intakes cannot be moved to adjust to fluctuating water levels. Increased chemical additives will be necessary for bacteria control. Costs will rise to purify water, generate power and compensate for erratic, unpredictable water supplies. The goal of safe, dependable drinking water will be compromised.

Page 5

ECONOMIC IMPACT

Today, infrastructure improvements or expansions along the river are stymied. No one can justify expenditures in this uncertain environment. Therefore limited economic progress is taking place in many river communities. MFA has recently added two Missouri river locations. Uncertainties in river operations limit our investment/expansion plans. This is occurring in many localities. Less income in our communities reduces tax bases, spendable income and has a negative impact on people who live there. I was born in Minnesota and lived in the Dakota's. We could choose several recreation options. Those whose businesses, homes and livelihood may be impacted don't have that luxury. You can't just move the family farm!

IN conclusion, the CWCP is the only feasible alternative of those released. Alternatives other than the CWCP will likely create adverse consequences for flood control, inland drainage, navigation on the Missouri and Mississippi Rivers and water quality standards for utilities.

Page 6

GOVERNOR HOLDEN'S PUBLIC COMMENTS

MISSOURI RIVER PUBLIC HEARINGS

JEFFERSON CITY

11/7/01

Thank you for this opportunity to share my thoughts and observations with you this evening.

1

This issue is of supreme importance not only to Missouri, but also to the entire nation, and I want to thank you for holding this hearing to listen to the comments and concerns of the people of Missouri.

As Missouri continues to evaluate the newest data from the Corps, we will be looking to ensure that the Missouri River remains a "river of many uses," including recreation, navigation, agriculture, hydropower, water supply, and fish and wildlife conservation.

2

Balancing the interests of both the upstream and downstream reaches of the river is absolutely essential to achieving this goal.

Because of the vital importance of these issues, Missouri maintains that all decisions must be based on sound science.

3

We strongly believe that if all sides of this discussion commit themselves to adherence to solutions founded on valid scientific studies, that will enable us to make substantial progress on resolving the issues that have been debated for so many years.

Contrary to some representations, Missouri is firmly committed to improving the environmental health of the Missouri River.

4

However, we believe that there are ways to achieve these benefits while still protecting, and possibly enhancing, the lives and livelihoods of the Missourians who live on or near the banks of the Missouri River.

A significant concern to Missourians is that many of the proposals in the Revised Draft Environmental Impact Statement (RDEIS) include plans to increase total system storage in the upper lakes.

5

We have apprehensions that such changes would significantly reduce the ability of the Corps to ensure that the River is managed to the benefit of all residents of the basin.

The Corps must have adequate flexibility to respond to a wide variety of situations, both anticipated and unforeseen.

6

We believe these proposed changes to storage levels in the upper lakes would limit the Corps' capacity to perform its statutorily mandated role.

Missouri has further concerns that these changes to total system storage could eventually restrict the use of water by downstream states and thus be detrimental to the future welfare of Missourians.

7

Missouri strongly opposes any plan that would reduce the amount of usable water released to downstream states.

Furthermore, in light of the importance of the endangered species in this discussion, Missouri also suggests that the effects of increased storage of water in the upper lakes on the endangered species be examined.

8

Comprehensive data regarding the impact of higher levels in the upper lakes on the endangered species is not currently available, and we believe this information should be included in this dialogue.

A second key component of many of the current proposals is for a variety of reduced flows from Gavins Point Dam in the summer.

9

The flow levels and timing of the current proposals differ significantly from the historic hydrograph.

Missouri recognizes that a properly timed and proportioned reduced late summer flow will likely benefit some sections of the River's ecosystem.

10

I thus support efforts to achieve a flow level that will help these species, while also ensuring that the long-term viability of river commerce on the Missouri River is not degraded.

Missouri believes that such a flow level exists.

Our state has advocated a reduced flow of 41,000 cfs at Kansas City from August first through September fifteenth.

11

The goal of this proposal is to accomplish these flow conditions approximately three of every five years in order to balance the interests of the endangered species, recreation, and the continued support of other uses of the Missouri River.

Proposals to depart from current operations must also consider the effects of any changes on Mississippi River system navigation.

12

The entire inland waterway system depends on the supplemental flows from the Missouri River into the Mississippi.

I do not support proposals that are detrimental to the long-term viability of navigation on either the Missouri River or the Mississippi River.

Finally, any reduced summer flow alterations must be water neutral.

13

As I said before, Missouri will strenuously oppose proposals that reduce the amount of useable water released to downstream states.

A third key component of many of the current proposals is a periodic spring rise, created by federal releases of additional water from Gavins Point Dam during May.

Missouri has serious concerns that the current proposals for expanded spring releases could have adverse effects for the bottomland farmer in Missouri, including increased flood risk, higher groundwater levels, and inadequate drainage throughout the lower basin.

Additional spring releases could potentially compound the effects of large rainfall events downstream of Gavins Point, thereby increasing the risk of unanticipated flow levels in downstream states.

The dangers of such a spring rise are increased because water from Gavins Point Dam takes approximately 10 days to reach St. Louis.

16

Spring flooding keeps farmers out of their fields during the planting season, and higher groundwater levels reduce yields, thereby having a significant negative impact on Missouri's bottomland farming community.

Missouri's agricultural community must be a top priority in this discussion, and I will strive to ensure that the agricultural community along the Missouri River remains viable and profitable in the twenty-first century.

17

One issue that has occasionally been lost because of the more contentious nature of some of the other proposals is the importance of habitat improvement projects in restoring the aquatic diversity lost to the creation of the upstream lakes, and channelization and bank stabilization efforts over the last fifty years.

19

Missouri believes that an active program of habitat creation and restoration, augmented by appropriate alterations to late summer flows, would substantially assist the recovery of the endangered species.

Our state has undertaken a number of habitat improvement projects, often in concert with the Corps, and we believe that these cost-effective and uncontroversial efforts deserve significant investment by the federal government.

20

Finally, one issue of high-importance to our state, which is not currently in any proposals but has been raised at various times during this discussion, is the possibility of water transfers out of the Missouri River basin.

Missouri unequivocally opposes out-of-basin transfers.

21

Such transfers constitute economic and ecological threats given the existing demands for water within the basin and the needs of species dependent on the river for their survival.

In conclusion, Missouri is firmly committed to restoring and protecting the Missouri River – and ensuring that the river is managed for all citizens.

22

As the evaluation process of proposed changes continues, I want to reiterate the importance of basing all decisions on sound scientific data, and further urge that all of the potential impacts and opportunities to both the Missouri and Mississippi River systems for each component of every proposal be considered.

Thank you for the opportunity to express my position on these extremely important issues.

23

STATEMENT TO THE US ARMY CORPS BY SENATOR BOND ON MISSOURI RIVER MASTER WATER CONTROL MANUAL REVIEW 11/7/01 JEFFERSON, CITY MISSOURI

My name is Mike Mills and I am here to read the following testimony on behalf of Senator Kit Bond who is in Washington and could not be here tonight.

"Col. Curtis, members of the Corps, and my Missouri neighbors, I regret that I cannot be here tonight because the Missouri hearings have been scheduled during the middle of the week when Senate is in legislative session. Thank you for the opportunity to provide initial public testimony. More comprehensive testimony will be provided later in the comment period when I have the opportunity to review the materials in full that were just recently made available for the public for inspection.

I renew my previous request that the comment period be extended and that an additional public hearing be held in Missouri at the end of the public comment period so that experts in our State have a fair opportunity to review the hundreds of pages of technical data.

In summary, I believe that government should protect people from flooding, not cause floods. It should produce more efficient transportation options, not railroad monopolies, and it should continue the clean production of hydropower, not discourage it. This is always the case but it is even more obviously the case when our economy slows and jobs are at risks and families are feeling serious economic pain. The Fish and Wildlife Service plan fails because the plan's value to fish habitat is dubious while its risk to people is very real.

The good news is that I believe this new Administration will listen to the public and wants to find ways to improve fish and wildlife habitat without hurting people and property. This Administration did not start this mess, but they are left to clean it up. The President will soon have language approved by Congress in the Energy and Water Appropriations Act for 2002 which states clearly that the Secretary of the Army "may consider and propose alternatives for achieving species recovery other than the alternatives specifically prescribed by the United States Fish and Wildlife Service." It says further that, "the Secretary shall consider the views of other Federal agencies, non-Federal agencies, and individuals to ensure that other congressionally authorized purposes are maintained."

This language means two things: It means the Fish and Wildlife Service does not have a monopoly on this process and it means that the Army must maintain flood control and navigation.

In the end, I believe that the process can and will produce positive initiatives to help improve habitat for fish and wildlife and I believe that it will do so without selecting an alternative which injures people and property.

The proposition before the government is as follows: Shall this government increase your flood risk, bankrupt water transportation, leave shippers to the mercy of a railroad monopoly, and reduce energy production during peak periods of energy demand during an energy crisis because there is a chance it might help three endangered species?

This experiment is too dangerous and defies common sense. People downstream rely on the river for their livelihoods and they know the risk and have felt the economic and human loss when the river behaves outside its average tendencies. The Corps suggests that on average, few will be hurt much but it isn't the averages we are worried about, it is the additional extremes that we cannot tolerate. As everyone here knows, in Missouri, on average, it is neither hot nor cold.

The Fish and Wildlife Service, like the rest of us, want there to be more palid in the river, but the Fish and Wildlife Service also wants to avoid going to court and since some have threatened to sue them if they don't propose a spring rise and summer low flow, they propose a spring rise and summer low flow. They then attempt to market it to the public as being necessary because it is natural when in fact it is not. They propose a dramatic summer low during the time when we experienced the unregulated historic peak highs as a result of upstream snow melt.

We are fully aware of a natural "spring rise" because in Missouri, we already have one. It is dangerous and it floods rural and urban communities without warning. When it rains in the spring, unregulated tributary flows swell the river from normal to flood stage in hours and this is the monster that the Fish and Wildlife Service wants us to flirt with by adding what they call "no more than 3 feet" of water in the spring.

Until officials can accurately make 14 day weather forecasts, they are simply playing Russian Roulette with the gun barrel pointed at our heads.

According to the non-political, not-regulatory, scientists at the Department of Interior's USGS, "Currently, decisions regarding water and flood plain management on the Missouri River must be made without the benefit of long-term, in-depth scientific information to document changing conditions on the river."

The science of a river this size is extremely complex and the understanding of how everything interacts is understandably minimal. That is why the Fish and Wildlife Service is really hanging their hat on their concept of "adaptive management" so that they will be free to make additional changes to river management as they say "without having to go through another 12-year process." They don't want the public involved and they want this flexibility because they apparently don't believe that the specific "spring flood" and summer low flow proposal will restore the palid.

Seven years ago, the Corps "spring rise" plan was condemned from Omaha to New Orleans by the public. I have been very critical of the Clinton Administration for trying to force this down our throats this last year, but everyone should be reminded that it was the Clinton Administration in 1994 who proposed it only to reject it subsequently. It was their Secretary of Agriculture and Secretary of Transportation who vigorously opposed the Corps plan in 1995 representing the honest views of cabinet-level officials.

Governor Holden and the Mississippi River Governors of Kentucky, Tennessee, Louisiana, Mississippi, Illinois, Arkansas, Wisconsin and Minnesota wrote to the President earlier this year to communicate their opposition to this plan because of the impacts it will have on the Mississippi River which you will learn more about when you travel to Memphis and New Orleans. I would not be surprised to see our Brazilian competitors propose eliminating U.S. water transportation but it is not something one would expect from our own government.

There are nearly 100 organizations of the National Waterways Alliance from Virginia to Oklahoma to Mississippi to Minnesota to Alabama to Nebraska to Louisiana to Ohio and Pennsylvania who have written in opposition to what the Fish and Wildlife Service is
trying to impose.

The American Soybean Association, National Corn Growers Association, National Association of Wheat Growers, National Grain and Feed Association and other national groups who represent farmers have written in protest of the Service

proposal.

I believe what will happen at the end that did not happen seven years ago is that the Administration will actually identify projects and approaches that build habitat but do not injure people and property. The Bush team will work with the Congress, the States and the public to fund and implement them aggressively.

There are many ways to improve fish and wildlife habitat without hurting people and property. That should be and will be the ultimate positive approach that I believe the government will take.

I believe that the upstream states, who spend a small fraction of what our State spends on Conservation, should have a role in devoting more of their own resources to improve the river. What this debate between the states is really all about is who gets water when it is dry and the fact of the matter is that we all suffer when it dry. I don't blame them for asking for more water when its dry just as they should not blame us for wanting more water but we are not hiding behind the Endangered Species Act to argue our case.

Finally, many brave young men and women are in harm's way risking their lives as we speak to keep this country safe. At home, we must make our economy strong and we look to government to work with us, not against us, in fulfilling that mission.

I thank the public for being here tonight and I thank the Corps for being available to listen.

TESTIMONY SUBMITTED BY U.S. SENATOR JEAN CARNAHAN
November 7, 2001

Thank you for the opportunity to address an issue that is very important to the people of Missouri. As you can see, my State lies at the confluence of these two great rivers, the Missouri and the Mississippi. The rise and fall of these rivers has a tremendous effect on Missouri -- on its agriculture, recreation, environment, and economy.

Eight years ago Missourians faced one of the worst floods in the State's history. The great flood of 1993 destroyed crops, farmland, and entire neighborhoods. The damage caused by '93 flood ran into the billions of dollars.

This year we saw communities up and down the river again battling floodwaters. It astounds me that any government agency, whether it be the U.S. Fish and Wildlife Service or the Corps of Engineers, would contemplate an action that would put Missourians and residents of other downstream states at risk of even more flooding.

Changes to the Missouri River Master Manual could have a disastrous impact on Missouri and other downstream states. If the Corps implements any of the proposed alternatives under consideration in the Revised Draft Environmental Impact Statement (RDEIS) – other than the Current Water Control Plan (CWCP) -- Missouri would suffer great losses. Our agricultural industry would suffer, not only by the higher risk of flooding, but also by delayed or prevented planting due to backwater during the spring planting season.

Any change would also damage the region's overall economy. The barge industry alone contributes as much as $200 million to our economy and would be severely hurt by the changes in the River levels. We also must consider the effect on the Mississippi River. The alternatives other than the CWCP would jeopardize 100 million tons of Mississippi River barge traffic, which generates $12 to $15 billion in annual revenue. Irrigation, public water supplies, and Missouri utilities would also be negatively affected by proposed changes.

The Corps is considering such changes to the Missouri River Master Manual by a large degree to help endangered species. While I strongly support protecting endangered species, I firmly believe that we must factor in the hardships that we are placing on our citizens as well. Furthermore, I am not convinced that many of the proposed changes would actually accomplish the goals of protecting these species.

In recent years, this has become a partisan issue. It should not be. Some say that it is an environmental issue. However, the environmental benefits of the proposed changes have not been proven. Others say that it is solely an economic issue affecting upstream states. It is not. On balance it would greatly harm our economy.

This is an issue of fairness, and it is not fair to expose Missourians and other downstream residents to severe flooding, economic loss, and potential environmental destruction. I strongly urge the Corps to consider this when selecting a plan to govern the flow of the Missouri River.

IKE SKELTON
4TH DISTRICT, MISSOURI

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Statement of Congressman Ike Skelton (D-MO)

Regarding the Missouri River Master Manual Review and Update
Revised Draft Environmental Impact Statement (RDEIS)

Wednesday, November 7, 2001 – Jefferson City, Missouri

I want to thank the U.S. Army Corps of Engineers for convening this series of public meetings and hearings to discuss the six proposed alternatives to revise the Missouri River Master Manual. As you know, Missouri residents have demonstrated a serious interest in ensuring that responsible water flows are maintained on the Missouri River and have actively participated during the previous public meetings and comment periods to discuss proposals to modify the Master Manual. I am confident that the Corps will consider the testimony and comments received during this latest process in a thoughtful way.

The Missouri River forms the northern border of the Fourth Congressional District, whose residents I have the privilege of representing in the U.S. House of Representatives. Having been born in the river town of Lexington in Lafayette County, the Missouri River has played an important part in my life. Generations of men and women who have lived along the river share my respect for the Missouri River's contributions to our history, our heritage, and our economy. Missourians also respect the need to protect endangered species to the best of our ability. But it will be impossible to ask the public to support any plan that presents doubtful benefits for fish and wildlife and presents significant risks to our citizens.

Citizens in Missouri and other downstream states continue to be concerned about the impact of proposed water flow changes on farming, barge navigation, other agribusiness, and power generation, as well the impact on wildlife and habitat. A

PRINTED ON RECYCLED PAPER

spring rise and subsequent flooding that keeps farmers out of the fields would be an additional blow to farmers who have been dealing with some of the lowest crop prices in a generation. Lower water levels in the summer that disrupt the barge navigation season would raise transportation costs and possibly end barge navigation on the Missouri River altogether. Low water levels, in the summer and in the winter, may hinder electricity generation, also increasing costs at a time when our country is facing challenges to the energy sector. Modifications to water flows on the Missouri impact other vital waterways, such as the Mississippi River, and may interrupt commerce. None of these possible outcomes can be taken lightly. Short of maintaining the current water control plan, other proposals that have been discussed would be disastrous to these interests, without any measurable benefit for wildlife or habitat.

FC 8

Nav 12

MoPower 1

Miss 4

It should not be necessary to sacrifice the well-being of residents of Missouri and other downstream states in order to enhance wildlife habitat. In fact, current habitat rehabilitation projects along the Lower Missouri River have successfully begun to reverse the loss of habitats. The continuation of such projects could provide a proven tool to protect and restore endangered species.

WRH 6

Again, I appreciate this opportunity to comment on the Revised Draft Environmental Impact Statement. It is my hope that the Corps' final environmental impact statement and selected alternative seeks to avoid the adverse results that are such a concern to Missourians and to residents of the other downstream states. I am grateful for your attention to my views as the Corps seeks to balance the needs of Missouri River stakeholders.

Other 204

U.S. Fish and Wildlife Service
Public Comments
Missouri River Master Manual Hearing
November 7, 2001 - Jefferson City, Missouri

Good evening, my name is Charles Scott and I'm here this evening on behalf of the U.S. Fish and Wildlife Service to issue a brief statement on the Revised Draft Environmental Impact Statement for the Missouri River Master Water Control Manual. I'm also here to listen to the comments in person from citizens on this important issue.

The Service has primary authority for oversight of our nation's rarest animals under the Endangered Species Act. The Missouri River is home to the endangered pallid sturgeon and least tern, and the threatened piping plover. The decline of these species tells us that the river is not healthy for its native fish and wildlife, and that there needs to be a change in its management to restore the Missouri to a more naturally functioning river system. A healthy river provides wildlife habitat, supports fishing, and makes boating an attractive recreational activity.

Congress committed the Federal Government to preventing extinctions by requiring Federal agencies to use their authorities to conserve endangered and threatened species. During the last 12 years our agency has been working with the U. S. Army Corps of Engineers to modernize the management of the Missouri River to help stabilize and hopefully, begin to increase and recover populations of these vary rare animals. This new approach was described recently in a document called the "Missouri River Biological Opinion," published in November 2000.

The biological opinion looks at the river as a system and outlines the status of these rare species, the effects of the current operation on them, and a reasonable and prudent alternative to the current operation that will not jeopardize their continued existence.

Our biological opinion is based on the best available science and includes nearly 500 scientific references. In addition, we've sought out 6 respected scientists – "big river specialists" – who confirmed the need to address flow management, as well as habitat restoration. Further, the Missouri River Natural Resources Committee, a group comprised of the state experts on

Missouri River management, endorses the science in the opinion.

If you have read the RDEIS or summary document, you understand that the "GP alternatives" encompass the range of flows identified by the Service as necessary below Gavin's Point Dam to keep the listed species from being jeopardized. Our agency, and the Corps, also recognized the importance of some flexibility in management that would enable Missouri River managers to capitalize on existing water conditions to meet endangered species objectives without having to go through another 12-year process.

Other management changes identified in the biological opinion include a "spring rise" out of Fort Peck Dam, an improved hatchery operation to assist declining pallid sturgeon populations, restoration of approximately 20% of the lost aquatic habitat in the lowest 1/3 of the river, intrasystem unbalancing of the three largest reservoirs, and acceptance of an adaptive management framework that would include improved overall monitoring of the river.

In closing, the Service supports the identified goal of the revised master

manual - to manage the river to serve the contemporary needs of the Missouri River Basin and Nation. These needs include taking steps to ensure that threatened and endangered species are protected while maintaining many other socioeconomic benefits being provided by the operation of the Missouri River dams. The Service stands behind the science used in the opinion, and is confident that the operational changes identified in our opinion, and included in the RDEIS as GP alternatives will ensure that these rare species continue to be a part of the Missouri River's living wildlife legacy.

The Missouri River is a tremendous river, with a significant and revered heritage. Our influence has altered the river greatly. Changes are needed to modernize and restore health to the river -- for the benefit of rare species and for people, too.

Thank you for the opportunity to be on the program today.

I am Paul W. LePage. I own and operate farm land in the Cole Junction Levee District here in Cole County.

The Missouri River is a tremendous resource. In the valley along the Missouri River, we are blessed with fertile soil and a climate favorable for many different agricultural products. The impact statement of the Missouri River Master Water Control Manual Executive Summary dated July 1994, states: "Agriculture lands, residential areas, and business districts all benefit from flood control on the Missouri River." Approximately 1.1 million acres of farmland are subject to flooding along the Mainstem System. We do not need any additional water in the spring of the year. FC 8

The world food demand will continue to increase from the current demand, adding about 35 million tons of grains, oilseeds, meat and dairy products per year. To meet this demand, and keep our food prices as low as possible, we must continue to farm the Missouri River Valley.

A spring rise would increase the chance of flooding. Also, it would cause internal drainage problems, delayed planting dates, and drowned crops. FC 8 IntD 8

A reduced summer flow (split navigation season) would be a great disaster to Missouri, and many other states. The reduced summer flows would not be adequate to provide for navigation on the river during the harvest season. This Nav 12

Thank you for the opportunity to speak to you here tonight.

I'm Daniel LePage. I'm a 7th grade student at St. Martin School here in Cole County. My parents are Bill and Lesley LePage, and our family farms in the Missouri River Valley at Cole Junction. My Grandpa, Paul LePage, also farms in the Cole Junction Levee District.

We have a good levee, but we don't need any extra water in the spring of the year. That's planting time, and a high river means more seep water, which makes it really hard or even impossible to plant our crops. Extra water in the spring would also increase our chances of having a flood. Dad says there are enough challenges to farming without having a controlled flood forced upon us by the Corps of Engineers. FC 8

My brother and I like to stand on the bank of the river and watch the barges go up and down. Grandpa says if there's not enough water in late summer for the barges to travel, our fertilizer prices would be higher and the grain we sell would not bring as much money. Nav 12, 7

My brother and I also like to hunt and hike in the woods outside the levee. But without the river controlled and the dikes repaired, the river is rapidly eating into our hunting grounds. Other 70, 218, 7

I've been to visit the Steamboat Arabia in Kansas City. I know that our great country would not be where it is today without the river navigation that went on in the past. I think river navigation is important for our future. Our highways are already overloaded and in disrepair. Do you know how many trucks it would take to haul the grain that one barge can haul? Why would we want to put more traffic on our highways? Nav 23

I also think that American farmers need to continue to grow lots of grain so that we can develop and market more ethanol and biodiesel. Everyone knows that our dependence on foreign oil is scary, so why would we want to take fertile crop ground out of production when we can be growing grain for food, and clean-burning ethanol and biodiesel? Other 48

I've watched my Dad and my Grandpa farm, and I hope that someday I can farm, too. That's why I hope the Corps of Engineers will use the same plan to manage the river as they have been using in the past.

Thank you.

Daniel LePage

would end navigation on the Missouri River. The industry cannot afford to operate under a split-season scenario.

There are many power plants along the river, generating our ever precious electricity. If the river became low in late summer, they would not receive enough water to keep in operation. Between Sioux City, Iowa and St. Louis, Missouri, there are approximately 1,600 water intakes. They serve many purposes, the main one, of course, being the municipal water supplies. With lower late summer flows, there would not be adequate water to supply their needs.

MoPower 1

WS 11

It seems that after all is evaluated, the current water control plan is the best plan for the Missouri River.

Thank you.

November 3, 2001

Re: Missouri River Master Water Control Manual

I have been farming in Missouri, including Missouri river bottom land and hill land, for over 65 years, continuing on from my father, and I have always been a friend to the land and nature. I have been a strong supporter of Conservation, and have worked my whole life to improve the population of deer, turkey, and grouse, at a balance with producing a good living for my family.

Based on my experience, I know that the last thing that we need is a Spring rise in the Missouri River EVER. We purchased our first river bottom ground near Hermann in the 1940's and have increased our operations in the river bottom over the years since. I know how the river level affects farming operations from the 65 years that I have watched it and tried to manage my operation around it. The changes in flow that you are suggesting do not make any sense if you want farming to continue along the river, in some of the best land in Missouri. Farmers have had to contend with the weather as a factor that we could not control, but now you put forward a plan that would 'guarantee' the kinds of disasters that heretofore only nature could provide.

FC 8

If you are going to flood out farmers every third year, as your plan will do, you will then need more welfare for young farmers as they will be out of business. What bank would give a farmer a loan for seed and chemicals for that third year when the 'Spring Rise' will come? The interest would need to be very high for that bank to have any expectation of recovering their money. I do not think that we need to be creating more welfare opportunities; we are supposed to be reducing welfare. Spring soil preparation and planting will not happen that year for many farmers. Even having the river level at Hermann at 22' (1 foot over flood stage) may not top the levees, but it will make the land so wet it will keep us out of the fields and prevent preparation and planting. Any Rise that you plan, no matter how controlled or planned, will only add to Nature's fury. You can't stop the water once you let it go, and you will not know the weather for our area at the time that you release, so you can't say that you will know and plan around existing weather conditions.

Reducing the navigation of the river can be just as detrimental to farmers, although it may not be recognized as a direct affect. The limiting of barge traffic with reduced summer flow comes right after wheat harvest and will make transportation costs go up; therefore giving the farmer less profit. It may affect the price to the end customer, but it always comes back to the farmer to take less for his crops in the end.

Nav 6,8,9

Ongoing management of the river without direct input from all parties involved is as big a mistake as your current plan. Not only are you saying that this plan is good for all (which it is not as I pointed out above), you are saying that these same people who put this plan together should keep making all the decisions forever. This is probably the most dangerous mistake. You say that people who have done the work and have the experience of 65 years of working with the River and Nature do not know anything. You need to listen to us who have been there and know the long term affects of what you plan.

Do not implement this plan if you want some of the most profitable farming in Missouri to continue.

Rubin G. Haeberle
Missouri River-Bottom Land Owner and Farmer

Oral Testimony:
Lynn M. Muench
The American Waterways Operators

Missouri River RDEIS Public Hearing
Jefferson City, Missouri
November 7, 2001

I'd like to thank the Corps for this opportunity. How we decide to balance the multiple uses of this important national treasure, the Missouri River, will indicate how much we, as a nation, value economic prosperity, the health of the family farm, and our environment.

My name is Lynn Muench and I am Vice President of the Midcontinent office of The American Waterways Operators. AWO represents the towboat and barge operators on our coastal and inland waterways system, including on the Missouri River. Today, I'm here to articulate our industry's concerns with the alternatives presented in the RDEIS and our vision of the future.

The construction of the dams on the Missouri River and the locks and dams on the Mississippi River were begun in the 1930s. Congress mandated 9-foot channels to move agricultural, in a cost-effective manner, ~~products~~ from the landlocked Midwest to the coasts and to export markets. Before

The ability to ship via barge also mitigates major air pollution problems in the St. Louis area. As a "Non-Attainment" Zone, the region already faces heavy scrutiny from the EPA. If barge traffic no longer existed on the Missouri River, a reasonable expectation with the split-navigation proposal, 1.5 million tons would be forced to rail or truck. If this tonnage were shifted to truck, almost 40,000 more trucks would move through St. Louis yearly. This does not consider tonnage that would have to move off the Mississippi River due to the decreased reliability. The RDEIS does not indicate that the Corps has evaluated increased costs due to appreciably increased air pollution, to the potentially increased fatalities on our roads, or the cost of increased road and bridge construction. Our industry requests that the Corps consider the environmental and quality of life costs of this modal shift.

Nav 12, 23

Miss 29

The impacts on the Mississippi River are either unknown at this time or grossly underestimated. The Corps has either not evaluated, considered, or released information on the following:

1. According to the Missouri Department of Natural Resources, split-navigation, otherwise known as low summer flows, would render the Mississippi River unreliable in at least 27 out of 100

Miss 4, 19

The ability to ship via barge also mitigates major air pollution problems in the St. Louis area. As a "Non-Attainment" Zone, the region already faces heavy scrutiny from the EPA. If barge traffic no longer existed on the Missouri River, a reasonable expectation with the split-navigation proposal, 1.5 million tons would be forced to rail or truck. If this tonnage were shifted to truck, almost 40,000 more trucks would move through St. Louis yearly. This does not consider tonnage that would have to move off the Mississippi River due to the decreased reliability. The RDEIS does not indicate that the Corps has evaluated increased costs due to appreciably increased air pollution, to the potentially increased fatalities on our roads, or the cost of increased road and bridge construction. Our industry requests that the Corps consider the environmental and quality of life costs of this modal shift.

Nav 12, 23

Miss 29

The impacts on the Mississippi River are either unknown at this time or grossly underestimated. The Corps has either not evaluated, considered, or released information on the following:

1. According to the Missouri Department of Natural Resources, split-navigation, otherwise known as low summer flows, would render the Mississippi River unreliable in at least 27 out of 100 years. How will this impact the nation's economy and the American farmer? Will agricultural exports still be able be competitive in the world market?

Miss 4, 19

3

2. The "spring-rise", otherwise known as a "planned" spring flood, would vacillate, in a short period of time, the water levels in the St. Louis Harbor. There is no evaluation of how fast the St. Louis Corps District could dredge the harbor. What are the costs?

Miss 29

3. The Depletion Analysis Fact Sheet initially misstated that GP2021 would be a save the nation $10 million when, in fact, it would be a $10 million cost. How many more mistakes are there in the RDEIS that we have been unable to locate? The Corps has not allowed appropriate time for stakeholders to evaluate these documents.

Other 9

4. With low summer flows, how would the unreliability of the Missouri, Mississippi, and Illinois Rivers impact our national security? The Department of Defense relies on our river system to move supplies during peacetime and wartime.

Nav 24, 49

5. Why are shippers' increased costs not included in economic costs?

Nav 65

4

6. Why is the methodology used to evaluate recreation and navigation different? How can we compare apples to oranges? AWO requests the Corps reevaluate their economic analysis. The study must reflect the true impacts to the entire nation.

Other 210

The waterways industry desires to provide the nation with the safest, most environmentally friendly, and cost-effective form of transportation. AWO members request that the Corps and the USF&WS reevaluate both the Biological Opinion and the RDEIS and look for ways to balance all the basin's needs. Sufficient water flows for navigation in the Missouri and Mississippi can be maintained while improving habitat for threatened and endangered species. Habitat restoration in concert with current flows as dictated by the CWCP could find such a balance. Adaptive Management, an ingredient of all the options, would disenfranchise stakeholders. It is also illegal under NEPA. AWO members strongly urge the Corps to choose CWCP as its preferred alternative and work to create habitat for threatened and endangered species in a way that does not endanger America's economic prosperity, the American farmer and the environment.

WRH 6
EnSp 18,26

Other 6, 10,70, 218

5

In summary, AWO remains strongly opposed to any change in Missouri River reservoir operations that will jeopardize Missouri River or mid-Mississippi River navigation.

6

George Stuckhoff 5266 Hackmann Rd
Augusta, MO 63332

Points

(1) Farm in low area of bottom.
(a) Losses about $100 an acre — says water
(b) Can't do too much about our situation but the raising of the river 2 ft in the spring will almost certainly cause other farms in our neighborhood to experience this as well.

FC 8
GW 7

(2) Most people have assumed that when you don't rebuild a levee and permit the water to flow through ~~the~~ a river bottom that the river level should drop during floods. That is at least as likely is that the current will slow in the main channel; that the channel will, as a result, silt up and as a result reduce the carrying capacity of the river. Thus it is at least as likely that opening a bottom will not really help flood levels in the long run.

ErSd - 35

Statement that

Lastly, a word about Congressional intent.

(3) ~~If the I don't think~~ If ~~that~~ this increase in spring flood levels had been proposed as a consequence of the Endangered Species Act, is there anyone at all who thinks that that Act would have sailed through Congress as it did?

Other 264

(4) These ill effects are certain;

LAFARGE NORTH AMERICA

Revised EIS for the Missouri River Master Water Control Manual
November 7, 2001 Public Meeting
Jefferson City, Missouri

Good evening, my name is Steve Kidwell. I work for Lafarge North America Inc. We are a worldwide leader in supplying construction materials, most notably Portland cement, concrete, aggregates, wallboard, and roofing tiles. Lafarge is strongly committed to producing high quality products safely and responsibly.

I work at our cement plant in Sugar Creek, Missouri. Our facility and property lie on the south bank of the Missouri River just east of Kansas City, Missouri. I manage all the environmental and public affairs at our location there.

Cement manufacturing has existing at this location long before Lafarge acquired the facility in 1991. In fact our property has supported limestone mining and cement manufacturing since 1907. The river has been used for raw material, fuel, or product transportation since the beginning.

Lafarge is investing heavily in this location. To meet increased demand, we are nearing the completion of a $200,000,000 project to nearly double our annual cement production capability. Lafarge has also recently invested over $300,000 in the barges used to transport cement to Omaha, Nebraska.

The Sugar Creek Plant is part of Lafarge's River Region, which includes cement plants and numerous terminals located on the Missouri, Mississippi, and Ohio Rivers. River transportation is a vital link in between Lafarge's plants and suppliers, and is the most cost effective, safe, and, environmentally friendly form of transportation that we can employ in our region.

Nav 49

As a specific example, next year my plant anticipates shipping up to 79 barge loads of cement to our customers. This same amount of material would require over 4000 tractor-trailers, create additional safety and noise concerns for our cities and highways, and consume 3-4 times the amount of fuel resulting increased air emissions.

These are significant environmental and quality of life impacts. And yet, I haven't even included the impact of receiving raw materials or fuels by barge.

River transit also serves to keep rail and truck transportation rates more competitive, and that is good for all industries.

In conclusion, Lafarge wants to maintain the ability to ship and receive materials via barge. We believe the Missouri River provides the most cost effective, safe, and environmentally sound way to do this. Lafarge supports any alternative that avoids a split navigation season or significant reduction in the length of the navigation season.

Lafarge North America Inc.
2200 Courtney Road; Sugar Creek, MO 64050
Office: (816) 257-3600 Fax: (816) 257-2116

November 7, 2001

Oral Testimony:
Jefferson City, Missouri Public Hearing
Revised Draft Environmental Impact Statement
Missouri River Master Water Control Manual
United States Army Corps of Engineers
Northwest Division

Good evening. My name is Randy Asbury and I'm Executive Director of the Coalition to Protect the Missouri River. This coalition represents a diverse group of twenty-eight agricultural, navigational, utility, industrial and business-related entities all of which are, or represent, Missouri River stakeholders. We support responsible management of Missouri River resources and the maintenance of congressionally authorized purposes of the river including flood control and navigation. We also support habitat restoration for endangered or threatened species to the extent that it doesn't jeopardize humans or their sources of livelihood.

In a paper written to address the preferred alternative of 1994 entitled The Historical Mission of the US Army Corps of Engineers, Rose Marie Hopkins wrote, "The world has become smaller. Business is now operated on a global basis. Only two percent of the US population are farmers. Therefore, those farmers must be more efficient to continue producing an affordable and plentiful food supply. Depriving farmers in the Missouri River Basin of the competitive transportation structure that includes the river, railroads, and trucks will directly impact the price paid for every bushel of grain…According to Bill Jackson, AgriServices of Brunswick, Missouri and Bob Macoy, Manager of Bartlett & Company of Waverly, Missouri, the price paid to the farmer for grain produced will be $.20-.25 per bushel less…Lower prices will reflect the higher transportation costs the river terminals will be forced to pay to get the grain on to market."

Nav 7, 6, 8

"Moving grain by barge is much more cost effective than by truck or rail. Water-compelled rates result when railroad routes that run parallel to the rivers are forced to

compete with the lower-priced barge rates. There is little doubt that without river navigation, the price of transporting by rail will be even less attractive than it is currently. Simply put, savings result from water-compelled rates. Rail rates in North and South Dakota where the only options are truck or rail are much higher than where there is competition from barge transportation. It is quite obvious that this is because of the lack of competition. Fractions of pennies in the price of grain, let alone quarters, greatly impact international markets in today's global marketplace."

Nav 56 (Con't)

The importance of agriculture and navigation to our nation today is even of greater importance. Reliance on world markets and transportation to these export opportunities is critical to our nation's farm economy. World population continues to climb and our nation's farmers meet that challenge by producing food to meet ever-increasing food needs. Farmer's efforts are complemented by the role navigation plays in the transportation of agricultural commodities to the world market.

The Corps' Depletion Analysis Fact Sheet states river depletions are generally bad for Missouri and Mississippi River navigation. This is a correction over original Corps documentation stating the opposite. Documentation now shows that Mississippi navigation will incur an additional $10 million in expenses. We believe this figure is underestimated and could substantially increase upon further review.

Other 9

The importance of navigation to our nation's transportation system cannot be overemphasized. Agricultural commodities travel the rivers to New Orleans on their final destination to foreign markets. The competitive cost of transportation on the Mississippi is one reason our nation is able to compete in global export markets. South American countries are investing large sums in river infrastructure to upgrade their river systems to be more competitive in world markets. America cannot afford to allow any aspect of river commerce to deteriorate for fear of losing export market share to South America at the expense of our agricultural industry. It is imperative that no alternatives be implemented that will cause damage to this critical component of our transportation system.

Nav 56

Ag and navigation also combine two segments of society that are environmentally friendly. Farmers and navigators are daily conservationists despite the rhetoric. Navigation offers transportation that is unparallel in environmental effectiveness. The carrying capacity of one barge tow eliminates the need for 870 semi-trailer trucks to travel our nation's highways saving lives, resources and dependence on fossil fuels. Our nation's highway and railroad infrastructure is not adequate, especially in Missouri, to withstand ~~a~~ the loss ~~or reduction~~ ~~in~~ of navigation. It's time for federal agencies like the Departments of Ag, Transportation, Energy and EPA to recognize the seriousness of this issue and analyze the effects this issue will have on the sectors of society they oversee?

The end of Missouri River navigation and the curtailment of Mississippi River commerce will occur under the GP options. The far-reaching effects of the direct and indirect costs associated with this burden to the transportation system will adversely impact both agriculture and navigation. I urge the Corps to continue with the CWCP without the addition of adaptive management.

Nav 12

Waters Farms, Inc.

Highway Z
Mo. 640

November 7, 2001

TESTIMONY:
JEFFERSON CITY, MISSOURI PUBLIC HEARING
REVISED DRAFT ENVIRONMENTAL IMPACT STATEMENT
MASTER WATER CONTROL MANUAL
MISSOURI RIVER
REVIEW AND UPDATE
UNITED STATES ARMY CORPS OF ENGINEERS
NORTHWEST DIVISION
COLONEL DAVID A. FASTABEND, COMMANDER

Good evening. My name is Tom Waters. I live near Orrick, Missouri and I am a seventh generation Missouri River bottomland farmer. Colonel Curtis, tonight I want to express my personal opinions about the alternatives found in the U.S. Army Corps of Engineers Revised Draft Environmental Impact Statement.

You see? I am one of the many farmers along the Missouri River which could be driven out of business if the U.S. Fish and Wildlife Service achieves its goal of gaining control of the Corps of Engineers and the operations of the Missouri River. The Spring Rise and Low Summer Flow alternatives proposed in the Revised Draft Environmental Impact Statement would be devastating to my farm. A farm that has been handed down through several generations.

I want to tell you about the people the Spring Rise would affect. As Chairman of the Missouri Levee and Drainage District Association I have had the opportunity to meet and become friends with hundreds of Missouri River bottomland farmers. Colonel, these people live their lives farming the rich bottomland soils found along our great river. They produce the world's safest and abundant food supply.

The people along the Missouri River have a great resolve and determination when it comes to protecting their way of life for they know the importance of the work they do. I share their determination to protect one of our nation's greatest natural resources and the productive farmland adjacent to it.

Colonel, I do not exaggerate when I tell you my farm will suffer if the Corps releases higher flows in the spring. My farm will suffer if navigation is forced off the river by lower summer flows. Higher spring flows keep our floodgates closed and my fields are unable to drain. This causes delays in planting and sometimes drowns the crops I have planted. In these times of a poor farm economy, farmers cannot afford to replant their crops two and three times because the river is flowing at high levels. Barge and rail ship much of the grain I grow. The loss of navigation on the Missouri River would increase transportation cost and reduce the price I receive for my grain.

IntD 8

Nav 7

During World War II, the land I farm today produced potatoes that fed thousand of hungry soldiers fighting for our country. Today, I raise several thousand bushels of corn, wheat and soybeans, which are not only used here at home, but are also shipped across the globe to feed an ever-growing population.

Past generations worked hard to harness the river. Generations after generations have fought to keep the river from flowing over their land. We must not abandon the flood control efforts put into place by our forefathers. The current water control plan was designed to protect our communities, provide transportation for our nation's products and supply drinking water for communities along the river.

Recently, the repair and maintenance of the riverbanks and channel have declined. Many dikes and structures in the river no longer meet the original design criteria for the system. Increasing flows in the spring and reducing them in the summer as proposed in the Revised Draft alternatives would stress the system beyond its designed specifications. This is a dangerous prospect for farmers and communities along the river.

Nav 5

There has been a great discussion about flexible flows for the Missouri River. Sir, I can tell you, without a doubt, flexible flows flood farmers and families. The idea of flexible flows is based on theories and guesses about what might happen. The U.S. Fish and Wildlife Service biological opinion is not based on sound science. It is a plan for various experiments to be conducted with the river system.

EnSp 17

Colonel, my farm is not a laboratory and I don't wish to be a guinea pig. While fish and wildlife biologist plot and plan on ways to connect the river to the floodplain, I continue to fight lower crop prices and higher expenses. I am proud to help feed our hungry world and just as my forefathers fought the Missouri River, I will continue to fight the Fish and Wildlife Service, the Corps of Engineers, Senators, Representatives, Environmental groups and anyone else whose plans and ideas would push me out of the business I love.

Colonel, I have, and many of the people in this room tonight have, a great resolve and determination to protect our livelihoods. We will not support any plan that calls for any additional spring flows. We will not support any plan which causes a split navigation season. Therefore, the only plan I can support is the current water control plan without the addition of the adaptive management strategy.

I truly believe we can protect the endangered species found in and along the Missouri River. I addressed that topic last night in Kansas City. Until the Corps of Engineers develops a plan which will not put human lives and property in danger, I and thousands of farmers like me will stand ready to protect some of the nations most productive bottomlands. I have enjoyed working with the Corps to find a workable solution and look forward to continue to work with you and your staff as you reconsider the Revised Draft Environmental Impact Statement. Thank you.

November 7, 2001

Oral Testimony
Jefferson City, Missouri Public Hearing
Revised Draft Environmental Impact Statement
Missouri River Master Water Control Manual
United States Army Corps of Engineers – Northwest Division

Good evening. My name is Dale Ludwig. Tonight, I am representing the Missouri Soybean Association and the Coalition to Protect the Missouri River. I am executive director/CEO of the Missouri Soybean Association, a membership organization made up of nearly 1,500 soybean farmers from across the state. I also farm 800 acres of soybeans and other crops with my father in southeast Missouri.

First, I would like to say this whole issue of Missouri River management seems outrageous. Why is the Corps of Engineers considering birds and fish more important than agriculture? Agriculture provides a livelihood for thousands of Missourians. Farmers are putting food on the table for millions of people around the world, and the Corps is planning to jeopardize some of our best land, not to mention, the devastation this could cause on our homes and communities. Yes, we support habitat restoration for endangered or threatened species, but only if it does not harm humans or their livelihoods.

Other 7,48,70,124, 218

We are opposed to a spring rise that would create adverse affects on our farmland, such as flooding and inland drainage. Missouri agriculture already experienced nature at its worst with the floods of 1993 and 1995. We do not need to put our land in danger again. It is impossible for us to support any alternative that proposes a three to four foot spring rise and suggests further risk to our crops.

FC 8
IntD 8

The proposed spring rise would occur during planting season and increase the risk of flooding and internal drainage problems during our prime. Our planting season is time sensitive as it is and this would cause delayed planting dates. If our crops are already in the ground, they will be drowned or washed out.

Increased flooding of the Missouri River also has the potential to lead to the loss of lives and property. People and communities are at stake. A spring rise could cause thousands of homes to become flooded. We must consider the citizens of Missouri and their livelihoods before we increase the level of our largest waterway.

FC 8

Furthermore, we are opposed to reduced summer river levels that will result in a split navigation season and likely end Missouri River navigation altogether and pose a negative impact to the Mississippi River. In Missouri, we export nearly 50 percent of our soybeans. In order to transport our products out of the state, we are using the Missouri and the Mississippi Rivers. Some statistics show that we are not using the Missouri River to export that many soybeans. Many times we ship our beans to St. Louis and then use the Mississippi River to transport them to New Orleans. The flow of the Missouri River still has an impact on the Mississippi River, therefore leading to the reduction of transportation.

Nav 12, 7

The reduction of summer flows would equal the minimum service for navigation. These releases would not be adequate to provide navigation on the Missouri River or the Mississippi River during the harvest season. With grain prices at an all-time low, we do not need unnecessary actions hindering our efforts.

As a producer from Cape Girardeau County, I use a local river terminal to ship most of my grain. I farm on the stretch of the Mississippi River that depends on the Missouri River before it connects with the Ohio River. A summer flow reduction of the Missouri River would lead to a reduced flow of the Mississippi River. This in turn would lead to decreased barge traffic for my grain exports.

Miss 4

As a representative of Missouri's over 24,000 soybean farmers, we do not support the spring rise/summer flow. We are forced to support the current water control plan as the only feasible alternative proposed. The potential consequences of increased flooding are prevalent and disastrous. The so-called 'controlled flooding' is an unthinkable option that threatens thousands of acres in Missouri. It would allow the river to flood areas that are key to agricultural production.

Good evening. I am Mark Newbold, Manager of Administrative Services and Regulatory Affairs with Central Electric Power Cooperative. This evening I am representing the rural electric cooperatives of Missouri. Our three-tier system of generation, transmission and distribution company's serves almost 1.5 million people primarily in rural Missouri.

The Missouri electric cooperatives have numerous concerns with potential changes to the Missouri River Management Plan. These range from the methodology used by the Corps to evaluate historical river data, to the impacts on rural families that depend on the river, to the Corps' adaptive management proposal, and how the USF&W biological opinion is being applied. However, for tonight I will focus primarily on potential impacts to electric power production.

The primary issue underlying all of our concerns is the shift in benefits of water to the upstream Missouri River Basin states. Upstream states have, and continue to, encourage increased total system storage in the upper lakes to support primarily recreational uses. With this increased storage, increased dependency for other uses develops, such as new and expanded water supplies and agriculture uses. These increased dependencies will restrict the use

We believe adaptive management creates too much freedom for the Corps to adjust river management, and specifically flow management, without any significant input from the public. This would not coincide with the guarantee of the National Environmental Protection Act to provide the public with a meaningful opportunity to comment on all major federal actions significantly affecting the quality of the human environment. The far-reaching authority of adaptive management on flow adjustments is unacceptable.

Other
3, 10

Producers are not the only group that disagrees with the proposed river management alternatives. We have the support of numerous senators and representatives who do not agree with a spring rise and summer flow because it jeopardizes the safety and well being of Missouri. People and communities must be valued before the pallid sturgeon, piping plover and the least tern. I urge you to put the people living and working along the Missouri River first.

Thank you.

by, and impact the future welfare of downstream states. Further, we oppose any out-of-basin transfers, such as the Garrison Diversion. These transfers negatively impact all designated uses of the Missouri River and have the potential for significant environmental impact in the basin to which the transfers are made.

Our power supplier, Associated Electric, operates electric generation facilities that would be affected by changes in the Missouri River Management Plan. Both this water supply from, and ability to discharge to, the Missouri and Mississippi Rivers are potentially jeopardized by alternatives to the Current Water Control Program. Additionally, as an integrated system we are dependent on the regional power supply grid to effectively meet our members' electric power needs. There are numerous power plants, from north of Kansas City to south of St. Louis, owned by other companies that could be adversely affected by changes in the Missouri River flow, especially during the high demand summer months. As such, changes in the Missouri River Management Plan that adversely affect these other generating plants on the river indirectly affect our members.

President Bush instructed federal agencies, through issuance of Executive Order 13211, to review the potential energy impacts of regulatory actions under their jurisdiction. The Missouri River management Plan alternatives have not been evaluated and we request that the Corps conduct a review of the energy impacts of each alternative as required by Executive Order 13211. Any plan that hinders electric power generation, either hydroelectric, fossil fuel, or nuclear, is contrary to President Bush's Energy Policy and should be rejected.

The electric cooperatives own and operate two electric generating plants, the Chamois Power Plant, and the New Madrid Power Plant, that are dependent on water from the Missouri River. These facilities [redacted] depend[redacted] on river water for condenser cooling. Low flows not only impact operations by the limited water level available for intake but also low river stages during late summer coincide with higher generation demand and elevated river temperatures, decreasing the efficiency of the plant and increasing the likelihood of effluent temperature violations.

The New Madrid Power Plant has operated for 28 years without the need to limit or curtail operations due to low Mississippi River levels. Since January 1, of 2000 the plant has had to implement low water operations for 33 days at a cost of more than 4.6 million dollars. These low water contingency measures will however, only

assure plant operations to a river stage two and a half feet below the original critical elevation.

During this past summer of 2001 river water temperatures during August, at the Chamois Power Plant, were reaching a point at which plant operations were close to being restricted in order to comply with Permit discharge limitations. This issue is an annual one that potentially limits generation at this facility. The Chamois Power Plant is dependent on a consistent water supply from the Missouri River to assure continued operations

A lower basin water commitment is necessary to protect the present uses of the Missouri River for electric generating facilities, including those located on the Mississippi River below St. Louis, and assure a resource for future necessary electric generating capacity.
The electric cooperatives do not support reduced summer flows below 40,000 cfs or a split navigation season.

Missouri's rural electric cooperatives and our rural members rely on the Missouri River. Any changes in the management plan for the river must consider not only ecological impacts, but also the impacts on families that will be affected by these changes. In closing, I would like to state for the record that we concur with and support the comments submitted to these proceedings by the State of Missouri and the Coalition to Protect the Missouri River.

Thank you.

BONNIE BLACKWELL
3445 PETERS FORD ROAD
LESLIE,MO 63056

LADIES AND GENTLEMEN OF THE UNITED STATES ARMY CORPS OF ENGINEERS:

MY MAIN PURPOSE FOR BEING IN ATTENDANCE TONIGHT AT THIS PUBLIC HEARING IS TO ASK YOU TO CONTINUE TO MANAGE THE MISSOURI RIVER AS BEST YOU CAN TO PREVENT FLOODING AND DRAINAGE PROBLEMS IN THE SPRING WHEN CROPS ARE PLANTED AND TO MAINTAIN THE RIVER SO THAT NAVIGATION WILL BE POSSIBLE DURING HARVEST TIME.

WE ALSO HOPE THAT THE PRODUCTION OF ENERGY CONTINUES TO BE RELIABLE AND AFFORDABLE.

THEREFORE, I ASK YOU TO - PLEASE - MANAGE THE MISSOURI RIVER SO THAT IT IS AGRICULTURE AND ENERGY FRIENDLY-----IN OTHER WORDS---------AS IS!

NOV. 2001
JEFFERSON CITY RIVER TERMINAL

TO: CORP OF ENGINEER:
JEFFERSON CITY RIVER TERMINAL AND MIDWEST CEMENT CO. ARE INVOLVED IN TOWING BARGES TO AND FROM JEFFERSON CITY MO. AND INVOLVED IN UNLOADING BARGES ON THE MISSOURI RIVER.

Nav 12, 23

WE NEED A MINIMUM OF 8 MONTH NAVIGATION SEASON TO GET PRODUCTS INTO JEFFERSON CITY, MO IN THE EARLY SPRING AND OUT IN THE FALL
WE ARE OPPOSED TO A SPLIT NAVIGATION SEASON
TOWING BARGES WITH 8' DRAFT HAS 1313 TON PER BARGE OR 52 TRUCK LOADS PER BARGE
WITH A 6 BARGE TOW WE CAN BRING 312 TRUCK LOADS INTO JEFF WITH A TOW
THIS IS BURNING LESS FUEL PER TON AND THE AIR QUALITY FROM EMISSIONS ARE LESS THAN BY TRUCK FOR THOSE INTERESTED IN THE ENVIRONMENT
THIS IS A SERVICE TO THE MIDWEST
WE CAN BE MORE COMPETITIVE WITH OUR PRODUCT TO OUR CUSTOMERS HERE IN THE MIDWEST

JEFFERSON CITY RIVER TERMINAL
MIDWEST CEMENT CO
Bob Cox

This Plan will be devasting to Missouri Farmers. We have a spring flood as is and often it is more flood than flush

FC 8

also it will be devasting to large Company's, the most enviomentally sound transportation in terms of Ton material moved per gal Feul

Nav 23

I believe it would be a disservice to the Farming Community to side with the enviomental faction

Doug Schmidt
2060 Old Ferry Rd
Mexico Mo

MASTER MANUAL HEARINGS TESTIMONY
NOVEMBER 7, 2001

For well over 100 years the Citizens of this country have been working together on improving the Missouri River and its surroundings. Now is the time to come together and see that our ecosystems remain in focus for all. I would strongly urge our Senators and Representatives to examine the current water control plan (CWCP) as the guideline for the Missouri River Master Manual operations.

The Corps proposed plans for Spring Rises, Reduced Summer Flows, Higher Reservoir Levels in the Upper Basin, Adaptive Management Practices, Bank Stabilization practices, and Species and Habitat Restoration all are plans which have major ramifications. I would strongly urge you to examine these plans as to how they affect everyone.

In the Boonville Wooldridge area these plans could be detrimental. Just this last summer another two feet of water would have put the water over the levy threatening not only the farmland but also Interstate 70.

FC 8

The lack of water with reduced Summer Flows also threatens our water supply for our town.

WS 11

It is quite imperative that everyone realize that everything must work together for the benefit of all and we cannot control Mother Nature to the degree that we end up with a dry Missouri River or a River spilling out of its banks.

Sharon Schnuck

MASTER MANUAL HEARINGS TESTIMONY
NOVEMBER 7, 2001

For the best interest of all concerned I strongly urge you our Senators and Representatives to see that our current water control plan (CWCP) be established as the focal point for the Missouri River Master Manual operations. This plan manages the Missouri River currently to prevent flooding and inland drainage problems, support reliable and affordable energy production, and maintain navigation for the transportation of grain and other goods.

FC 8

The proposed Spring Rises are very risky because no one can control the weather in all the states that affect the Missouri River. Even this last year another two feet of water on the Missouri River at Wooldridge would have been detrimental. As we were already experiencing flooding, delayed planting, drowning crops, and the threat of railroad washouts. With Interstate 70 being a major lifeline to the heartland of the U.S. it would be of major interest to everyone to never put it in danger of being threatened by flooding

Other 3,10

The proposed use of "adaptive management" will only put control of the Missouri River into the hands of a select few. Public input will be reduced in the decisions involving flow management and the total ecosystem may be lost as well as our democratic way of government.

Nav 40

The corps and fish and wildlife service are considering jeopardizing our riverbanks and causing erosion of our farmland by removing and modifying the rock dikes and structures in the Missouri River. It would be better to maintain these structures and capitalize on other structures that would better maintain our river

WQ 12

The Corp also plans for increasing the reservoir levels in the upper basin. This will directly affect Boonville by lowering the quality of their drinking water as well as putting their water supply in question. Also this would mean a loss of water for hydroelectric generation.

MoPower 1

Associated Industries of Missouri

The Voice of Missouri Business.

411 Jefferson
P.O. Box 1709
Jefferson City, MO 65102

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Fax: (573) 636-7816
www.aimo.com

Statement of Norb Plassmeyer, Vice President and Director of Environmental Affairs for Associated Industries of Missouri

U.S. Army Corps of Engineers hearing on future management of the Missouri River
November 7, 2001

Industrial Implications of Reduced Flow in the Missouri River

The effects of changing the flow patterns on the Missouri River on transportation and agriculture have been thoroughly discussed, and properly so. Since transportation and agriculture are so fundamental to the economy, a demonstration of significant negative effects of any action in these areas should be sufficient to eliminate the proposal from serious consideration.

WS 11

But there are additional considerations that are possibly even more significant in Missouri. They are the effects of reduced flow on communities, and industrial and utility operations with facilities operating on the basis of design flow rates established prior to the proposal reductions.

Some facilities could find themselves in a precarious position in terms of a consistent water supply with intakes in their existing position.

WQ 2

In addition, and equally important, is the effect of discharging effluent into a reduced flow stream. Michael Comodeca, an attorney with Spencer Fane Britt & Browne and formerly a senior environmental attorney with the U.S. Army has written a paper "The Emerging Battle Over the Missouri River and How it Affects Your Business," which effectively examines this issue. (A copy of Mr. Comedeca's paper is attached.) Because industrial discharges to the river are often concentration based, a decrease in water flow could increase concentration levels and make compliance with water quality requirements extremely difficult. In order to stay in compliance, cities and industries along the Missouri River will be forced to either add technology or decrease their amount of wastewater discharge.

It is highly likely that the economic consequences of changing flow to the industrial, agricultural, transportation and municipal facilities on the lower Missouri will far outweigh the benefits to upstream states.

Clearly, Missouri cannot tolerate the proposed changes and all Missourians should vigorously oppose them.

SPENCER FANE
BRITT & BROWNE LLP

The Emerging Battle Over The Missouri River And How It Affects Your Business

© Michael P. Comodeca
Spencer Fane Britt & Browne LLP

In August, the State of Missouri joined the battle over managing the flow of the Missouri River. Through the Missouri Attorney General, the state filed a federal lawsuit against the U.S. Fish and Wildlife Service challenging the Service's position that the river should be managed to create more natural-like, seasonal fluctuations in flow. This is the second actual or threatened lawsuit concerning Missouri River management.

The battle promises to be long and potentially bitter. On the one side are environmental groups who have threatened to sue both the U.S. Army Corps of Engineers and the Fish and Wildlife Service for failing to protect endangered species on the river. On the other side are industry and farming interests who are fighting back against what they perceive as a direct attack on their livelihood. The environmental groups advocate a change in the flow of the river that could have substantial economic impacts. These groups would increase water flow in the spring and decrease water flow in the summer, resulting in a split barge season. According to industry representatives, a split barge season would lead to the demise of the barge industry and a rise in transportation costs throughout the Missouri River basin. The changes advocated by the environmental groups could also affect the ability of cities and industries along the Missouri River to meet the limits of their wastewater discharge permits under the National Pollutant Discharge Elimination System (NPDES) program. A decrease in water flow in the summer is particularly troublesome to dischargers whose limits are concentration-based. To achieve compliance, the discharger would be forced either to purchase and install additional technological controls, terminate or lessen the amount of the discharge, or face substantial environmental fines. Moreover, the recent and controversial rule issued by EPA which implements new Total Maximum Daily Load (TMDL) requirements may result in even tighter permit limits.

The management of water flow in the Missouri River

The Corps controls the management of the Missouri River through a series of six dams and reservoirs. The Corps operates and maintains these dams and reservoirs to balance the need for flood control, navigation, irrigation, hydropower, water supply, water quality, recreation, and fish and wildlife. To assist in accomplishing these purposes, the Corps prepared the Missouri River Water Control Master Manual, often referred to simply as the Master Manual.

WA 559943.1

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BRITT & BROWNE LLP

The Master Manual describes the water control plan for operating the dams and reservoirs. The current water control plan has remained virtually unchanged since its creation in 1960. Since then, development within the Missouri River basin has changed, partially in response to 20 years of near-normal inflows of water into the system. In response to concerns about the effects of the first major drought (1987 to 1993) since the system first became operational, the Corps in 1989 initiated a review and update of the Master Manual.

Environmental issues

The National Environmental Policy Act (NEPA) requires an environmental impact statement (EIS) for any action that may significantly impact the quality of the human environment. The review and update of the Master Manual must conform with NEPA, so in 1994, the Corps published a draft EIS. That document included: (1) a discussion of alternatives; (2) economic, environmental and social impact assessments; and (3) technical studies. The document also presented a preferred alternative for managing the water flow in the Missouri River. As required by NEPA, the draft EIS was the subject of a full public review process. In addition to a submission of written comments, 24 public hearings were held in both the Missouri and Mississippi River basins. Due to the extensive public interest in the proposed preferred alternative, the Corps decided to publish a preliminary revised draft EIS in an effort to build a consensus on how to manage the river. The planned publication of this document was delayed when two national environmental groups notified the Corps they intended to file lawsuits to stop the proposed revision of the water control plan (see below).

The Endangered Species Act (ESA) requires federal agencies to consult with the Fish and Wildlife Service if the proposed action may affect endangered or threatened species. These are called "listed species." Under Section 7 of the ESA, consultation can be either informal or formal. Formal consultation is required if the proposed action *will* affect listed species. The result of formal consultation is a biological opinion issued by the Fish and Wildlife Service, which will state that the proposed plan either does or does not jeopardize listed species. If the Fish and Wildlife Service determines that the proposed plan will jeopardize listed species, it will issue what is called a "jeopardy opinion." In a jeopardy opinion, the Service will propose "reasonable and prudent alternatives" to the proposed action that must be incorporated before the implementing federal agency can proceed. Recently, the regional office of the Fish and Wildlife Service issued a draft biological opinion. The Service, in its opinion, informed the Corps that the proposed plan for operating the dams and reservoirs is "likely to jeopardize the continued existence of the least tern, piping plover, and pallid sturgeon."

Environmental groups threaten to sue

On March 30, 2000, two environmental interest groups filed separate 60-day notices of intent to sue both the Corps and the Fish and Wildlife Service. American Rivers and the Environmental Defense Fund (EDF) threatened to sue, asserting that the proposed water control plan violates the ESA.

The environmental groups specifically object to how the Corps operates the dams on the Missouri River. The groups assert that the "dam operations jeopardize the continued existence of

WA 559943.1

SPENCER FANE BRITT & BROWNE LLP

the least tern, the piping plover, and the pallid sturgeon. In addition, the [Corps] has failed to complete consultation with the U.S. Fish & Wildlife Service under Section 7 of the [Endangered Species] Act. . ."

The environmental groups want the Corps to adopt a plan that alters the present flow of water in the Missouri River. In its March 30, 2000 letter to the Corps and the Fish and Wildlife Service, EDF states it desired a return to the "more natural flow regime for the River." Specifically, these groups would like to see "rising flows in the spring followed by declining flows in the summer." This action, according to both groups, would improve nesting conditions for both the piping plover and the least tern, and improve spawning conditions for the pallid sturgeon.

On March 31, 2000, the day after the environmental groups threatened to sue, the Corps announced it was entering formal consultation with the Fish and Wildlife Service regarding the annual operations and related projects on the Missouri River.

Economic impacts

Changing the flow pattern of the river in the manner proposed by the two environmental groups will affect several interests other than endangered species. According to an industry spokesman, the change will "impose a huge economic cost on farmers, industry and consumers."

The impact on the barge industry is the most central. The current water control plan offered by the Corps proposes one long continuous barge season. The two environmental groups have proposed that barges run a "split season", operating only in the spring and the fall. According to industry representatives, a split barge season would increase costs too much for an industry that is already operating on slim profits. Ultimately, according to these representatives, a split barge season would mean the end of navigation on the Missouri River.

According to representatives of the State of Missouri, the demise of the barging industry has the potential to affect more than just those industries and farmers who use barges as a means of transportation. The impact may also be felt by those who use other methods of transportation along the river, such as truck and rail. The mere presence of the barge as an alternate mode of transportation may keep down the cost of other modes of transportation through a phenomenon known as "water compelled rates." Once the barge is no longer available as competition, the cost of the other methods of transportation is more likely to rise, according to the state.

On July 11, 2000, EPA promulgated a final rule strengthening the TMDL program. Implementation of this rule, combined with changes in the water flow in the Missouri River, could result in increased economic costs to cities and industries along the river. Section 303(d) of the Clean Water Act requires states to submit to EPA a list of waters in the state not meeting water quality standards. The new TMDL rule gives the states a deadline to develop TMDLs, essentially a pollution budget, to clean up the listed waters. Current permit limits may be inadequate to meet these pollution budgets. As a result, states may impose more stringent NPDES permit limits on cities and industries in the Missouri River basin. Proposed changes in water flow in the river could add to the problem. If a discharger's NPDES permit limits are concentration-based, a decrease in water flow could increase concentration levels and make

WA 559943.1

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compliance more difficult. In order to stay in compliance, cities and industries along the Missouri River will be forced to either add technology or decrease their amount of wastewater discharge. Congress expressed its disapproval of the new rule by barring EPA from spending any fiscal year 2001 funds to implement the new rule.

Latest developments

The Corps and the Fish and Wildlife Service still are engaged in formal consultation concerning management of the Missouri River. On August 31, 2000, the Corps published for public review the Service's draft biological opinion on the management of the river. The 30-day comment period runs through September 29. In its draft opinion, the Service states that the Corps' proposed operation of the Missouri River is "likely to jeopardize the continued existence of the least tern, piping plover, and pallid sturgeon." To remedy the situation, the Service requires "higher spring flows and lower summer flows than currently exist" - a split barge season.

As noted above, the State of Missouri has filed a federal lawsuit against the Fish and Wildlife Service for its failure to conduct adequate surveys of endangered species critical habitat along the Missouri River. According to the State, had the Service taken this step, the drastic changes proposed for the management of the river to protect these species would be unnecessary.

Farmers and barge operators are angry at the proposed change, saying that the changes could ruin their livelihood, and that the agency is "overstepping its authority and threatening years of regional effort toward a compromise that would help wildlife without harming human uses on the 2,341-mile stream."

Two Missouri senators have responded angrily to the proposed change in water flow, asserting that the Service is "hijacking" the Corps' management role. Moreover, Senator Bond of Missouri proposed an amendment to the Energy and Water Appropriations Bill for fiscal year 2001which states that "none of the funds made available in this Act may be used to revise the Missouri River Master Water Control Manual [if the revision] provides for an increase in the springtime water release . . . below the Gavins Point Dam." Skirmishes between the opposing interests are expected to continue in Congress and in the courts for the foreseeable future.

Note: Prior to joining Spencer Fane, Mr. Comodeca served as a senior environmental attorney with the U.S. Army. In that capacity, Mr. Comodeca interacted regularly with both the Corps of Engineers and the Fish and Wildlife Service on endangered species matters.

WA 559943.1

MO-AG

My name is Jim Russell. I am president of the Missouri Ag. Industries Council, Inc. (MO-AG), a 500 member-plus agribusiness trade association located at 410 Madison Street, Jefferson City, Missouri.

MO-AG firmly believes that the Corps' present day plan is far superior to any of the five alternate plans that have been put forth. We urge the Corps to use the current scientific-based plan into the future to better serve the total environment.

Other
6, 22

Sincerely,

Jim Russell,
President

MISSOURI AG INDUSTRIES COUNCIL, INC.
P.O. Box 1728, Jefferson City, Missouri 65102
Telephone: (573) 636-6130 Fax: (573) 636-3299

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NEBRASKA CITY, NEBRASKA TRANSCRIPT— NOVEMBER 8, 2001

1

U.S. ARMY CORPS OF ENGINEERS
NORTHWESTERN DIVISION

HEARING AND TESTIMONY ON THE
MISSOURI RIVER REVISED DRAFT
ENVIRONMENTAL IMPACT STATEMENT
MASTER WATER CONTROL MANUAL

NOVEMBER 8, 2001

* *

HEARING BEFORE COMMANDER KURT F. UBBELOHDE,

U.S. ARMY CORPS OF ENGINEERS,

taken before me, Denise J. Lukasiewicz, Court Reporter and General Notary Public within and for the State of Nebraska, commencing at the hour of 7:05 p.m. on the 8th day of November, 2001, at the LIED CONFERENCE CENTER, 2700 Sylvan Road, Nebraska City, Nebraska

* *

2

I N D E X

EXHIBITS:

Comments by David Burkholder, President, Consolidated Blenders, Inc.

Comments by Clyde Anderson, Secretary, Nebraska Chapter of the Sierra Club

Comments by Patty Judge, Iowa Secretary of Agriculture

Comments by Mike Olson, U.S. Fish and Wildlife Service

Comments by Roger K. Patterson, Director, Nebraska Department of Natural Resources

Comments by Gene Zuerlein, Nebraska Game and Parks Commission

Comments by Nancy Newlon

Comments by Chad Smith

Comments by Ione Werthman, Audubon Society of Omaha

Comments by John James

Comments by Randy Asbury, Executive Director of the Coalition to Protect the Missouri River

Comments by Joe Citta, NPPD Environmental Policy Maker

Comments by Doug Beckman, District 9 Director, Iowa Farm Bureau Federation

Comments by Jamie Mierau, Outreach Specialist & Conservation Associate, American Rivers

After a brief introduction, a short video presentation and hearing instructions and guidelines were given, the testimony portion of the hearing commenced as follows:

COMMANDER UBBELOHDE: We will begin the hearing beginning with elected officials.

MR. MOORE: Patty Judge?

MS. JUDGE: Good evening. I am Patty Judge. I am the elected Secretary of Agriculture for the State of Iowa. It's a pleasure to be here with you this evening. I appreciate the opportunity to provide you with what I consider input to be crucial to Iowa's agricultural community. I want to assure you that Governor Vilsack and I have been in close communication on this subject, which we both consider vitally important to western Iowa agriculture.

The State of Iowa will submit additional, more comprehensive comments at a later date to you, but tonight I would like to take the opportunity to address a few concerns of the agricultural community.

Iowa has participated actively in the Master Water Control Manual Study,

mainly through the Missouri River Basin Association since 1998. And that association, for the audience's knowledge, is made up of voting representatives that have been selected by the various governors, and the states participating are Iowa, Missouri, Kansas, Nebraska, South Dakota, North Dakota and Wyoming.

In November of 1999, the Association submitted their recommendations for operations of the system to the Army Corps of Engineers. The Modified Conservation Plan developed by the association was supported by all of the states, with Missouri being the only exception. This is the plan that was referenced in the video. It does shorten the normal navigation season from eight (8) months to seven-point-one-two (7.12) months annually. Additionally, the modified plan serves to more quickly trigger conservation measures in times of drought. This will increase the frequency of years that require the navigation industry to work under minimum or reduced service levels. This plan does do a better job of sharing the pain during drought periods, though I want it to

Nav 30

5

be understood that the State of Iowa certainly does not benefit from that compromised plan.

The Iowa Department of Agriculture and Land Stewardship has an ongoing commitment to our farm community, while also recognizing that protection of our environment goes hand in hand with a healthy agricultural economy. We must strive to strike a balance between maintaining a healthy environment and a vibrant, robust agricultural economy.

After analyzing the possible effects of the six operating plans for the Missouri River, the Department of Agriculture continues its support of the Modified Conservation Plan. This plan is a compromise plan that does provide for more equitable distribution of water resources during periods of drought. In agreeing to this compromise, we maintain reasonable navigation and marketing opportunities and avoid potentially damaging drainage problems.

Nav 49

If the Gavins Point options are granted, however, there will be a direct negative impact on Iowa farmers and on the agricultural community. Possible field flooding

FC 8

6

during the forced spring rise could cause serious economic consequences for producers along the Missouri, particularly those in Pottawattamie, Mills and Fremont counties. Slowing or stopping the navigation industry during deliberate low flows of the summer months greatly impacts our ability to move grain and agricultural products, causing more money to be spent on alternative modes of transportation and services.

Nav 7

The Iowa Department of Agriculture and Land Stewardship Soil Conservation Division is working hard to protect our water and to promote a healthy wildlife habitat, while, at the same time, maintaining the food production system for the world. We're working hard to develop wetlands, to plant buffer strips and grass waterways, among other conservation measures. This work is providing habitat for wildlife and birds in Iowa.

The Soil Conservation Division estimates that approximately 130,000 acres of southwest Iowa farm ground would be impacted by the Gavins Point 1528 option and the Corps' own research indicates that nearly one point four

FC 40

7

(1.4) million acres would be impacted throughout the lower basin. This impact would come in the form of economic loss to an already financially stressed Iowa farmer.

In the climate of struggle for the survival of the family farm, the intentional flooding of a farmer's land by the United States government is almost impossible for us to comprehend.

In conclusion, we oppose both the spring rise concept and the subsequent low summer flows proposed. We support the compromise as was agreed upon by the Missouri River Basin Association where there's an equitable distribution of water resources, and we oppose all of the Gavins Point options.

Thank you, sir.

MR. MOORE: Mike Olson?

MR. OLSON: Good evening, Colonel Ubbelohde. My name is Mike Olson and I'm here this evening on behalf of the U.S. Fish and Wildlife Service to issue a brief statement on the Revised Draft EIS. I'm also here this evening, with other representatives from the service, to listen to comments, in person, from

FC 40 (con't)

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the citizens from this portion of the Missouri River Basin on this important issue.

The Service has primary authority for oversight of our nation's rarest plants and animals under the Endangered Species Act. The Missouri River is home to the endangered pallid sturgeon and least tern and the threatened piping plover. The decline of these species tells us that the river is not healthy for its native fish and wildlife and that there needs to be a change in its management to restore the Missouri to a more naturally functioning river system; a healthy river that not only provides wildlife habitat and supports fishing and makes boating a more attractive recreational activity, but is healthy for people as well.

Congress committed the federal government to preventing extinctions by requiring federal agencies to use their authorities to conserve endangered and threatened species, and during the last 12 years, our agency has been working with the Corps to modernize the management of the Missouri River to help stabilize and, hopefully, help begin to increase and recover populations

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of these rare animals.

This new approach was described in a document called the "Missouri River Biological Opinion" published November of 2000. This biological opinion looks at the river as a system and outlines the status of these rare species, the effects of the current operation on them and, most importantly, a reasonable and prudent alternative to the current operation that will not jeopardize their continued existence.

Our biological opinion is based on the best available science and includes nearly 500 scientific references. In addition, we've sought out six respected independent scientists, big river specialists, who confirmed the need to address flow management as well as habitat restoration. Also, the Missouri River Natural Resources Committee, a group comprised of state experts on Missouri River management, endorses the science used in this opinion.

If you've read the RDEIS summary document, you understand that the GP alternatives encompass the range of flows identified by the service as necessary below

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Gavins Point Dam to keep these listed species from being jeopardized. Our agency and the Corps also recognize the importance of some flexibility in management that would enable Missouri River managers to capitalize on existing water conditions to meet endangered species objectives without having to go through another 12-year arduous process.

Other management changes identified in the biological opinion include a spring rise out of Fort Peck Dam, an improved hatchery operation to assist declining pallid sturgeon populations, restoration of approximately 20 percent of the lost aquatic habitat in the lowest one-third of the river, intrasystem unbalancing of the largest three reservoirs and acceptance and implementation of an adaptive management framework that would include improved overall monitoring of the river.

In closing, the Service supports the Corps' identified goal of the revised Master Manual, to manage the river to serve the contemporary needs of the Missouri River Basin and nation. These needs include taking steps to insure that threatened and endangered species

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are protected while maintaining many other socioeconomic benefits being provided by the operation of the Missouri River dams.

We stand behind science used in the opinion, and we're confident that the operational changes identified in our opinion, and included in the RDEIS as the GP alternatives will ensure that these rare species continue to be a part of the Missouri River's living wildlife legacy.

As you have stated, the Missouri River is a tremendous river, with a significant and revered heritage. Our influence has altered that river greatly. Changes are needed to modernize and restore the health of the river for the benefit of these rare species and for the people of the basin as well. Thank you.

MR. MOORE: Roger Patterson?

MR. PATTERSON: Good evening. My name is Roger Patterson and I'm the director of the Nebraska Department of Natural Resources and I am speaking on behalf of the Department. I have also been appointed by Governor Johanns to represent Nebraska on the Missouri River Basin Association. Let me begin by thanking you for

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holding this hearing in Kansas City (sic).

We appreciate the Corps of Engineers' cooperation and help in understanding the impacts to Nebraska's interests during this long and difficult process. In particular, I would like to acknowledge the efforts of Rose Hargrave, Roy McAllister and Larry Cieslik.

Please consider my comments today as preliminary. We are continuing to review the Revised Draft EIS and plan to provide additional written comments prior to the close of the comment period.

Nebraska receives a large portion of the benefits from the operation of the Missouri River Mainstem Dams. All eight authorized project purposes benefit the citizens of our state. The Flood Control Act of 1944 which authorized most of the dams on the mainstem Missouri, contains the following statement in its opening section, quote, "it is hereby declared to be the policy of the Congress to recognize the interests and rights of the States in determining the development of the watersheds within their borders and, likewise, their interests and rights in water utilization

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and control."

We appreciate your recognition of the State's role as you have worked to develop alternative operating scenarios. We would also note that authorizing legislation is clear that the Missouri Basin projects are to be operated to benefit the citizens of the Missouri River states. We would encourage you to resist any suggestion that the Missouri River be operated specifically to meet downstream needs to the Mississippi River.

Miss 42

In 1994, the Missouri River Basin Association was approached by the Corps and asked to help develop an operation plan that would be acceptable to the States. After seven years of hard work, three basin-wide meetings and countless phone calls and meetings, seven of the eight basin states agreed to such a plan. Nebraska still supports that recommendation. Nebraska invested a tremendous amount of time and energy working as part of the Missouri River Basin Association to produce the November 1999 recommendation. We are pleased to see our recommendation reflected in all five of the RDEIS action alternatives.

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MRBA's recommendations addressed drought management, fish and wildlife needs, as well as tribal concerns. Many longstanding divisions between the states were overcome in addressing these issues.

The one issue MRBA chose not to address in a specific way was Gavins releases. We recognize the controversial nature of this issue and recommended it be further investigated before any changes be made. MRBA specifically recommended a recovery committee of federal, state, tribal and stakeholder interests be established to assist in this effort. You have clearly discovered the controversy and lack of an obvious solution associated with Gavins changes and are suggesting different approaches as described in four of the six alternatives. Before you pick a solution and proceed to make flow changes, we believe it makes good sense to get a sound monitoring system in place as well as the other elements of a good adaptive management program. That's not to say we don't understand your need to comply with the Endangered Species Act, and we're not suggesting you ignore this responsibility. We're simply

Other 119

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suggesting that the Corps and the Fish and Wildlife worked with the states, tribes and stakeholders throughout the basin in a way that allows you to proceed in a methodical way to meet your ESA responsibilities without doing unintended harm to the project's authorized purposes or other uses along the river. Good monitoring and adaptive management will be critical components of any successful effort.

Other 10, 119, 7

Should you decide to proceed with Gavins, we would only ask that you choose an alternative that would have the smallest impact on other purposes. Of the alternatives in the RDEIS, alternative GP1528 seems to come the closest to meeting this requirement, although, at this point, we are not ready to endorse any alternative as we are continuing our evaluation.

Other 7, A

Regardless of the alternative chosen, the final EIS needs to fully analyze the impacts of each alternative, and the selection of the preferred alternative and the associated record of decision should be formulated to allow appropriate response through adaptive management without the need for a significant amount of new

Other 3 10

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NEPA work.

I'd like to address some of the major concerns that Nebraska has. Let me start with hydro and thermal power production. Changes in the potential production of both hydroelectric and thermal power must be fully understood. Nebraska has over 50 municipalities that receive WAPA power from the Pick-Sloan projects as well as two of the five largest customers in Firm Energy Sales and Revenue. Nebraska also has four thermal plants with 2500 megawatts of capacity. The RDEIS shows that under some of the Gavins plans significant increases in power rates and increased risks to thermal power may occur. The RDEIS, however, appears to significantly underestimate these impacts. Given the national energy picture, it's important these impacts are better understood before a decision is made.

MoPower 1, 3

HPower 11, 18

We're well aware that there are three threatened and listed species on the Missouri River and that habitat improvements must be made so that these species and other species do not continue to decline in numbers. We only ask that the Corps balance any

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operational changes such that other authorized purposes do not experience unnecessary harm. We believe that the Recovery Committee idea and the use of Adaptive Management are critical tools for species recovery.

Other 10

Recreation on the channel of the Missouri River has been increasing and any impacts to the portion of the river bordering Nebraska need to be fully understood. Low summer flows would have an impact on accessing the Missouri River to -- access to the Missouri River from existing marinas. This is due to shallow depths at the junction of the river and the marina entry. Under current conditions, flows below 28,000 CFS during the peak summer period of recreational use would drastically impact this multi-million dollar industry.

Rec 4,10, 33

We'd like to thank the Corps for their willingness to be flexible in the past during the winter operation out of Gavins. Flexibility in operating the system to avoid ice jams and protecting the City of Omaha's water supply is greatly appreciated. We would like to continue this type of working relationship under the new Master Manual.

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Flood Control is one of the cornerstone purposes of the Missouri River projects and must be fully maintained. There is an increase in potential problems the further downstream you are from the release point during spring rises. The problems may not -- may occur not only because of flooding from high river flows but also due to less efficient interior drainage or backwater in the tributaries. With a four- to five-day travel time from Gavins Point to Nebraska City where our greatest concerns for flooding are, we must be assured that our valuable farmland is not unduly impacted.

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It's important that navigation remain viable as a transportation alternative for grain, fertilizer and other goods between St. Louis and Sioux City. We believe it is possible to meet the needs of these listed species while continuing to provide some level of navigation support. The alternatives that essentially eliminate navigation during the summer months may unnecessarily cause this issue to be thrown into the lap of Congress. We believe that is avoidable if the final preferred

Nav 12, 51

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alternative is crafted wisely.

In conclusion, I would like to thank you for the opportunity to testify on the Revised Draft EIS. We look forward to continuing to work with the Corps of Engineers in the future. Thank you.

MR. MOORE: Gene Zuerlein?

MR. ZUERLEIN: My name is Gene Zuerlein, I'm with the Nebraska Game and Parks Commission, 2200 North 33rd Street, Lincoln, Nebraska, 68503.

The Nebraska Game and Parks Commission has a public trust responsibility to manage, protect and care for fish and wildlife resources which belong to all citizens. This stewardship role is taken seriously. Our biologists have been working on the Missouri River for many years, conducting studies in order to obtain information to make good management decisions for the citizens of Nebraska. Our studies about fishery resources and the habitat needed to sustain them have helped us gain insight about the form and function of this large river.

In addition to fish and wildlife

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management activities, the Nebraska Game and Parks has three state parks on the mighty Missouri which include the Niobrara, the Ponca and Indian Cave, and a number of wildlife management areas and state recreation areas, all of which provide thousands of hours of recreational opportunities to citizens of this state.

Rivers do two fundamental things: They transport water to the ocean and they transport sediment to the ocean. Man-made changes to these processes and physical changes to a channel have served mankind greatly, but most of the changes were made before the different pieces of the ecosystem were understood and how they fit together for sustainability.

In serving on the Missouri River Scientific Review panel for the U.S. Fish and Wildlife Service's Biological Opinion, Dr. David Galat stated that "overwhelming empirical and theoretical evidence supports the contention that flow is the master variable driving the ecology of rivers." And he cites 15 different scientific studies, multiple authors. In

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essence, he is saying that the Missouri River needs a heartbeat to be biologically healthy.

Appendix III of the Biological Opinion dated November 30th, 2000 summarizes the past physical, chemical, biological and social impacts, and attributes them to channelization activities, construction and operation of dams or a combination of both activities. Moreover, 478 scientific references document these impacts, and another 36 scientific references are cited by three independent scientists evaluating the role of river hydrology to the conservation of Missouri River endangered species. This means a total of 514 scientific references have been utilized to document the past impacts to the Missouri River ecosystem.

We now know that the biological health of this river is at stake and that changes are needed to sustain this great river for present and future generations. In general, about one-third of the entire river has been replaced with reservoirs, one-third has been shortened, channelized, the banks stabilized and levees placed along the channelized reach, and the remaining one-third is somewhat natural

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but suffers from bed degradation and water temperature impacts to the flora and fauna. Essentially, the kitchen, dining room, living room, den, family room, bedroom and garage have been eliminated in terms of habitat to sustain the life cycle of the Missouri River fish species. What we have left is the hallway to provide needed habitats.

In the channelized reach alone, over half a million acres of aquatic and terrestrial habitat will have been eliminated from the natural channel and meander belt by the year 2003.

WRH 11

Because jeopardy to the least tern, piping plover and pallid sturgeon reflects degradation to the entire ecosystem, the reasonable and prudent alternatives identified by the U.S. Fish and Wildlife Service Biological Opinion to the Corps of Engineers contains key elements which are essential. They include an adaptive management approach to management, a restoration of shallow water habitat, unbalancing, monitoring and assessment, participation and propagation of the pallid sturgeon, and flow enhancement of Fort Peck and

Other A, 70, 198, 250

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Gavins Point Dam.

Analysis of the different alternatives proposed in the August 2001 Summary, Missouri River Revised Draft Environmental Impact Statement, indicated that Run of River would be extremely good for tern and plover habitat, a spawning cue for pallid sturgeon, floodplain connectivity and physical habitat for native fish.

Of the alternatives displayed in the Revised Draft EIS, we believe alternative GP2021 comes closest to meeting the hydrologic needs of the river. We believe this alternative is also the closest to the Biological Opinion.

Alternative GP2021 would also allow the Corps of Engineers to expose sandbar habitat for terns and plover nesting, and create shallow water habitat for young pallid sturgeon by lowering the stage, i.e. summer flows, every year as the conditions allow. The side boards of the GP2021 alternative allow flexibility for the Corps to try other alternatives such as 1521, 1528 and 2028, using the adaptive management approach.

The spring rise spawning cue is

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needed for more species than just pallid sturgeon. Other big river species such as paddlefish, sauger and catfish also need it, as do smaller minnow species, which constitute the prey base for other species such as channel and flathead catfish.

This heartbeat is Mother Nature's way to reinvigorate the physical, chemical and biological systems for sustainability. The healthier we can make the system, the higher the probability of not having additional species listed in the future. The healthier the Missouri River, the more it will continue to serve citizens and the communities who are dependent upon it.

In conclusion, I want to thank the Corps for diligently striving to meet the requirements of the Biological Opinion. The challenge we face is learning from the past and recognizing that although change may be difficult, life is a state of constant change.

I'd just like to also note that in Volume 1 of the main report, most of the Fish and Game agencies in the entire basin are not listed in there. There's only one agency --

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state agency and that's the Iowa DNR that have Fish and Game agencies within the DNR. All of the other six are separate agencies in and of themselves. Thank you.

MR. MOORE: Mike Wells? (Not present.) Lee Klein?

MR. KLEIN: Good evening. My name is Lee Klein, from Battle Creek, Nebraska. I'm the chairman of the board of the National Corn Growers Association. I'm secretary/treasurer of the Nebraska Corn Development Utilization and Marketing Board, and also the treasurer of the Lower Elkhorn Natural Resources District. I'll keep my comments short and to the point.

As I testified a couple of years ago on this issue, my comments remain quite the same. Agriculture is the life-blood of this state and country. It is imperative that we always consider the impacts of change on this industry and our ability to feed all U.S. citizens and billions around the world.

As an owner of a family sanctuary on the Missouri River, I can attest to the value of recreation, but I feel the highest priority must be placed on the economic use of the river,

Other 48, 7

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which includes flood control for agricultural lands, navigation and irrigation. I believe there can be a balance to the various demands on the river and I pledge the National Corn Growers Association support in finding that balance, but we must not forget the impacts of the river on the agricultural community.

We do oppose changes in the U.S. Army Corps of Engineers Missouri River Master Manual that have any negative impact on agriculture because it reduces navigation or potential for spring rise. I'm sure you can appreciate the economic conditions and fragility that farmers face today, let alone those that farm along this magnificent river. We must not create an additional hardship to those who derive their livelihood from this river. Here are our concerns: The environmental benefits of the spring rise theory are only theoretical and not scientific at this point. The Corps' own numbers show that the GP1528 alternative will only increase tern and plover habitat by one to two percent. This is habitat that can easily be created through non-flow-related means. Furthermore, there are thousands of

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1 miles of river in the lower Missouri, the lower
2 Mississippi, Atchafalaya and the Red Rivers
3 that experience natural spring rise and they are
4 home to the pallid sturgeon, but they're still
5 endangered. Why do we think some untested
6 theory will work on the Missouri?
7 Next, the risk for downstream
8 flooding is real. The water release from the
9 Gavins Point Dam takes about 11 days to reach
10 the mouth of the river. The spring rise
11 coincides with the time that the Missouri and
12 its tributaries are normally at their highest
13 levels. The people in this part of the state
14 can relate to that concern from personal
15 experience. They know that interior drainage
16 creates huge problems during high water levels.
17 The higher spring flows would
18 have a tremendous economic impact on the barge
19 industry that would virtually shut down from
20 July through September. Granted, barge traffic
21 on the Missouri is not as significant as the
22 Mississippi, but it is important to many of the
23 communities and commodities that use the barge
24 system. The real issue is the fact that
25 navigation places competitive pressure on the

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Nav 12, 6, 8

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1 rail rates in the Missouri River Basin. The
2 U.S. Army Corps of Engineers estimates this
3 competitive pressure at 70- to $200 million
4 dollars annually. There's an equally dramatic
5 impact on the ability to generate power via
6 hydroelectric generators and the cost of that
7 power, especially during a crucial time on power
8 demand.
9 Earlier I mentioned the differences
10 in the Missouri and the Mississippi Rivers as
11 far as traffic. There's also an interdependence
12 between these two rivers. During droughts, the
13 Missouri River provides more than 60 percent of
14 the water than the Mississippi River from
15 St. Louis to the mouth of the Ohio. Curtailed
16 discharges from Missouri reservoirs during a
17 drought would mean that navigation on the
18 Mississippi would grind to a halt, stranding
19 millions of tons of cargo.
20 In closing, I'm here to suggest
21 that the importance of maintaining this river's
22 transportation and flood control are essential,
23 and have far more economic and social benefits
24 than the theoretical environmental and
25 recreational benefits. Thank you for the

HPower 18, 11, 17

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opportunity to testify.

MR. MOORE: Nancy Newlon?

MS. NEWLON: Good evening. My name is Nancy Newlon and I live in southwest Iowa. My family owns farm ground in the Missouri River Basin, with some of that ground directly affected by the Missouri River. I support the current water control plan and would like to make the following comments.

I oppose the spring rise, reduce summer flow. The spring rise can mean an increase of up to four feet of additional water in the Missouri River. Thousands of acres in Fremont County depend on interior drainage. The drainage system does not work when the river is too high. On the Iowa side of the river, just under Highway 2, there are four flumes that drain thousands of acres of rich Iowa bottom farm ground. When the river level is above 13 feet at Nebraska City, those flumes are closed. At normal spring releases from Gavins Point Dam, the drainage gates at Nebraska City are usually very close to being closed, if not closed, each spring. Add to that spring rain anywhere between Gavins Point Dam and Nebraska City that

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must flow past the flood gates at Nebraska City and you have stopped the interior drainage of thousands of acres of farm ground at one of the most critical times for a farmer.

Our farm sells grain to the DeBruce Elevator in Nebraska City, who depends, to some extent, on barges to ship grain. A reduced summer flow could possibly mean an end to navigation on the Missouri River and loss of transportation for crops and farm products.

Nav 12

The fish and wildlife have been very successful at developing land on the unprotected side of the levee. One of these is just down the river from here and it's called Hamburg Bend. I believe the Corps needs to offer these landowners a fair price for such land and let the Fish and Wildlife Service develop these areas into rich wildlife habitats. One reason this land has not been sold to the Corps over the years is the unfair price they offer the landowner.

Other 70, 218

I would remind the Corps that they're the ones that chose to narrow the river with wing dikes and dam structures in the river and, most importantly, they are the ones that

Nav 11, 32

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1 years ago chose to abandon dredging the river.
2 Because of these management decisions, the
3 overbanks of the river have become silted in
4 over the high water years and, hence, the
5 holding capacity of the river has diminished
6 drastically. Consequently, the holding areas
7 for the Missouri River have become the farm
8 ground between the river and the levees. This
9 farm ground has decreased in value over the
10 years, not because of anything the landowner has
11 done, but because of management decisions by the
12 Corps.
13 The Corps should offer the
14 landowner a fair price for the ground, turn
15 the management of the land over to Fish and
16 Wildlife and you'd have a perfect habitat for
17 wildlife. This is not a biological opinion
18 and it's not a theory, it's a proven fact that
19 the Fish and Wildlife Service have been very
20 successful in creating wildlife habitat in these
21 areas.
22 I oppose the proposal of the use of
23 adaptive management by establishing an agency
24 coordination team. This team, as I understand,
25 will be composed of federal biologists, probably

Nav 75

Other
70, 218

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1 U.S. Fish and Wildlife Service and Corps of
2 Engineers with input from the EPA and other
3 groups with environmental interests. The input
4 from the public would be reduced to the Annual
5 Operating Plan process. I believe that my
6 interest in the management of the Missouri River
7 is just as important as the Fish and Wildlife
8 Service and EPA and that all interest groups
9 would be represented on the agency coordination
10 team, if such a team is established.
11 If you agree with the management
12 changes proposed by the Fish and Wildlife
13 Service because of their biological opinion, I
14 would remind you that it's just an opinion, an
15 opinion based on theory and faulty science. It
16 was in this room about a year ago that someone
17 representing the Fish and Wildlife Service said
18 they could not prove the changes in the Missouri
19 River that they proposed would do what they
20 hoped it would do. It was a theory that they
21 had to test. I believe it is unfair for my
22 family to -- family farm to be subjected to
23 possible economic devastation so a theory can be
24 tested. I urge you to continue using the
25 current Water Control Plan as the guidance plan

Other
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Other
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for the Missouri River. Thank you.

MR. MOORE: Chad Smith?

MR. SMITH: Good evening, Colonel. My name is Chad Smith. I live in Lincoln, Nebraska. I work for the river conservation organization American Rivers, however, tonight my comments are not on behalf of American Rivers, rather, they are on behalf of me, as a resident of the State of Nebraska.

I have lived in this state for 29 of my 31 years. I was born and raised in Lexington, got my undergraduate degree in Fisheries and Wildlife from UNL and am happy that Nebraska is now again home to me and my family. I am not a farmer. I do not raise corn, soybeans or livestock. Unfortunately, in this state, that often makes me feel like a second-class citizen; however, despite that fact, I love Nebraska and intend to continue to make it my home. I am who I am and I do what I do because my dad and my grandfathers took me hunting and fishing. Many of my best memories are being in a duck blind on the Platte River in central Nebraska on cold December mornings. From these experiences I learned about rivers,

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about conservation and the link between quality of life and a healthy environment. I still spend a vast majority of my time in the fall and winter on the Platte. However, I would like to have these experiences on the Missouri River as well, and I have had them, but I had to travel to North Dakota, to the Garrison Reach and to the 59-mile recreational river stretch below Gavins Point Dam. Why? Because that's about all of the natural Missouri River that's left.

It is clear that over the past 50 or more years the interests and concerns of people like me have received little to no attention in how the Missouri River is managed. Water for barges, land for corn, rock for levees, but no river for me. Lots of people talk about the Missouri being everybody's river, but, in current practice, that is a myth.

Other
A, 7

Frankly, I'm tired of being ignored. I want to experience the Missouri River, hunt ducks along it, fish it and spend time on it. When I have children and grandchildren someday, I want to pass on the lessons of my dad and grandfathers to them, and I want the Missouri River to be a part of that.

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As much as I enjoy the Garrison Reach and the short stretch of river below Gavins Point, I don't want to have to travel to those places only to enjoy the Missouri. The river is a ditch below Sioux City, it does not compel me to travel to local communities to spend money on hunting and fishing trips. I take my money to South Dakota, North Dakota and Montana, as do hundreds of other people, because the river in this area is largely lifeless and dangerous.

Other 178,182

Farming is important, hydropower is important, flood control is important, but my interests are interests as well, and I believe it's time they received due consideration. Conservation advocates like myself are often derided as being nostalgic for the days of Lewis and Clark. But the only nostalgia I really have been hearing lately is for the year 1960. For those who try to wax eloquent about the status quo, what they're really saying is life was perfect in 1960 when the Master Manual was written, that the Corps had all of the information it needed at that time and that the Corps got it exactly right.

Other 7

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Colonel, unfortunately, I am here to tell you that you didn't get it right and that a lot has changed since 1960. I'm not asking for the river of 1804, but the river of 1960 is not right either. This is the year 2001. Recreation is important. Our natural heritage is important. Truly, managing the Missouri River for everyone is important. Corps may be king out here, but I don't accept that monarchy; non-farming people count, too.

It's time to update the Master Manual. The Missouri's heartbeat is gone; bring it back. Duck and geese largely stay away from this river corridor; bring them back. Catfish used to be the real kings of the Missouri River; bring them back. As you finalize a plan for the new Master Manual, please take me into consideration. Be aware that there are a lot of people like me who feel slighted by how the river is managed now and are made to feel as though we don't count. Prove us wrong. Thank you.

Other A

MR. MOORE: Ione Werthman?

MS. WERTHMAN: Colonel, I am Ione Werthman. I live at 11649 Burt Street, Omaha,

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Nebraska, and I speak for the 2,000 members of the Audubon Society of Omaha, but also I speak for myself, a fourth generation Nebraskan who grew up along the Missouri River in the Gavins Point Dam area. I watched and even photographed the Corps of Engineers building Gavins Point Dam. During my lifetime, I've hiked, fished, canoed, went birding and even did a lot of midnight boating on the Missouri River.

I come here tonight to urge you to change the operation of the six dams on the mainstem of the Missouri to more satisfy the needs of our 21st century citizenry, that of recreation in the form of more boating, canoeing, fishing, hunting, camping and so forth, and the creation of wetlands and spawning areas for strong and healthy fish and wildlife populations.

Rec 35

The Missouri River is everyone's river and needs to be managed as such. The status quo is not sufficient. As Senator Kerrey used to say, many times, we need to come back to the river.

As an Audubon member, and as an advocate of a strong Endangered Species Act,

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we applaud the final Biological Opinion of the U.S. Fish and Wildlife Service that concludes that if changes are not made to include higher flows out of Gavins Point Dam in spring and lower flows in the summer, that the Corps will jeopardize the continued existence of not only the threatened and endangered species, but also species that could become endangered in the future because of conflicts in the operation of the dams.

EnSp 8

Of the six alternatives, we believe that GP2021 meets the necessary environmental requirements and should be the preferred alternative for the Corps. We feel that this flexible flow alternative will give the Corps a maximum amount of flexibility in responding to water conditions and the biological needs of the fish and wildlife. We are not advocating that the Corps return to the river -- to the river that Lewis and Clark encountered in 1804, but we do believe that the final plan should be a compromise between the needs of all of the states in the Missouri River Basin. We believe that GP2021 has the potential to do just that. Thank you.

Other A, 7

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MR. MOORE: Gary Mierau?

MR. MIERAU: My name is Gary Mierau and I'm speaking as an individual. I now live at 1766 Holly Street in Denver, Colorado, but I grew up here in Nebraska, and its people and its land and its river still remain very dear to me, dear enough to make me very willing to drive 500 miles to speak with you for just five minutes.

My situation is perhaps a little different from that of most people who are speaking here tonight, for I represent no organization, harbor no grievance and advocate for no particular cause. I'm just an ordinary citizen. One whom, like so many others, happens also to care very much about this entire country and its people. It is quite a special place, America, where we do, indeed, have a government that is of the people, by the people and for the people. And, accordingly, we do have governmental agencies such as the Army Corps of Engineers that do, indeed, seek to accurately reflect the will of the people in formulating their policies. I thank the Corps for inviting us all here tonight in its attempt to determine

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just what the will of the people really is these days with regard to managing flow rates on the Missouri River. Fifty (50) years have passed since, in this regard, the will of the people was first assessed and some things have changed.

Twice in my life I've seen a whooping crane. It was about the time of my first whooping crane observation that the Corps of Engineers developed its existing plan for managing flow rates on the Missouri. I think that it did a good job. People back then didn't place such value on such things as whooping cranes and piping plovers and pallid sturgeons, and this whole attitude is accurately reflected in the old plan.

When I saw that first whooping crane, I stood alone. Last year, when I saw my second, I stood in a crowd. One of the things that certainly has changed over the past 50 years is that, across the nation and around the world, a new conservation ethic has taken hold. The time has come to develop a new plan and this revised plan must and will take into account this new conservation ethic.

Other
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I have every confidence that the Corps will, once again, do its job properly and come up with a management plan that does accurately reflect the prevailing attitude of the general public. Really, it cannot do otherwise. For, in this great country, the government is us. If we, the people, are not satisfied with the work of a governmental agency, it is not the people that will disappear, it is the governmental agency that will disappear. The Corps won't need to be reminded of this simple fact, but some of the special interest groups may.

Does it sound like I'm an advocate for wildlife conservation? I am. When I said earlier that I am not here to advocate for any particular cause, what I meant is that I'm actually here to advocate for many causes.

Members of my family are Nebraska corn growers; I thus have an interest also in agriculture. I hold investments in the stock market; I thus have an interest also in manufacturing and in the efficient transportation of these products. I am a consumer of electricity; I thus have an

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Other
A

interest also in low-cost energy production. I am an avid fisherman; I thus have an interest also in the water-based recreational business. Like most Americans, I have a special interest in very many things and I want a management plan that will accommodate them all. It is my opinion that alternative GP2021 will accomplish this best. Thank you.

MR. MOORE: Nancy Hoch?

MS. HOCH: My name is Nancy Hoch, I am from Nebraska City. I'm president of the River Country Economic Development Corporation. I'm here tonight with a number of people from Nebraska City because this river is very important to us in so many ways. I'd like to ask those that are here tonight to stand, please. (Audience complied.)

We have an active municipal dock in Nebraska City and we're very concerned, of course, about the base of agriculture which is our base and how it is related to flood control and the navigation on the river. Agriculture, as I said, is our base, and we are anxious to say to you that this is an important consideration.

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Our main message probably is that the river doesn't belong to anyone. We are convinced that -- we have lived by it for a few years, but it does not belong either to a particular fish or a particular barge line or even to agriculture. But, arguably, you could say we are, perhaps, the most environmentally centered community in Nebraska with the National Arbor Day Foundation and all of the efforts and the facility in which you are having this meeting. And we care a great deal, we're very proud of Congressman Doug Bereuter's efforts in the fish and wildlife area, and his concern for the river, and his support of the mitigation efforts. And while we would, at this point, probably say that the current water control plan would be -- if we were to have to support one, I think we, like many, would like you to come up with some additional alternatives, perhaps learn from these sessions as you go along. But we are convinced that mitigation works.

Other
70, 6, 218

I've heard very little about the discussion of putting an emphasis on mitigation. We have Hamburg Bend in Nebraska City. It's working. You know, Chad Smith can

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perhaps come down, I don't know if you're allowed to fish there, but there is a great deal of highland fishing along the river. But the mitigation is important, we're very concerned about the fish and wildlife and having the environmental base, but we believe that can happen with mitigation. We would ask that you have strong support for mitigation as an answer.

Other
70, 218

When I went to your presentation recently here before the Sierra Club, it was a little surprising to me, and I understand that they say making legislation is like making sausage, you don't want to see it, but it was appalling to me that under economic uses, there was nowhere written anything about agriculture, and I would think that if I ask all of the people who are here for agriculture tonight to stand up -- everybody for agriculture -- there are a few of us. (Audience complied.) And, you know, I understand that when this was written, they came about economic uses in a little different approach, and that's not always your choice in the way these things are written. However, it

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is critical that agriculture is the basis for this area.

Our state senator, Roger Wehrbein, is on his way, he hopes to be here to testify. It's critical to our financial base. The things that have been said earlier about the influence on the transportation system, of the barge system, is certainly correct. We did a lot of -- the University of Nebraska did research when we were studying for the corn web milling plant in Blair and how the corn flows and how the prices are and how the barge traffic affects it, and the indication was that it's at least 10 cents a bushel on a bushel of corn. Well, that's a very big item.

And we would like to encourage you to -- we'd also like to speak to recreation. We think that the current -- much can be done under the current plan. We are working now on a Lewis and Clark interpretive center that we intend to tie to the river. We are going to try to become a part of Back to the River. Those things need to happen on the river as well.

Rec 35

It isn't -- as I said, the river doesn't belong to anyone. But, please, make an

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effort to put more emphasis on mitigation, and so as long as it's working as well as Hamburg Bend, we can -- all of these interests can be served. Thank you.

Other 70, 218

MR. MOORE: David Messing?

MR. MESSING: I'm David Messing of Nebraska City and I represent the Nebraska City Dock Board. And, basically, I'd like to say that I am concerned about the effect of agriculture and the economy. River navigation allows a couple of things here that we need to really talk about. Nancy alluded to the fact that it does make a difference of about 10 or 15 cents a bushel of corn, and that has to do with the fact that there's competition in transportation, particularly rail rates. As you get further from river terminals, you'll see rail rates begin to increase.

Nav 7

It also allows -- there's something else that hasn't been mentioned tonight. The barge business is two-way, it also means fertilizer coming up the river. It means minerals coming up the river, it means salt coming up that's used on our streets in the wintertime, so it's not just commodities going

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Nav 12

down the river. So it's going to be very important that whatever you decide on these releases that we get this fertilizer to this region in a timely manner, that if somehow the navigation would be impeded, that the fertilizer wouldn't be here on a timely basis. And then, of course, at a time when commodities need to go down the river in a very economical manner.

I think it all comes down to the fact that it relates to food prices and I think in this nation we even enjoy cheap food, when you look at what people around the world pay for food. And, of course, we enjoy cheap energy, too, when you look at the rest of the world. But I think if you have a better lifestyle and you are able to have that better lifestyle because you are able to enjoy a good meal for a reasonable price, then you can enjoy recreation and our environment. And I'm as much for the environment as anybody, I'm usually out on the bicycle trails on the weekends, enjoying our environment and wildlife as much as anybody. But please keep in mind that the economy and our food prices are going to be affected by this change in transportation, perhaps, that's

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Nav 7

involved with navigation.

Now, one of the things that maybe some of the other people might talk to, I know in earlier testimony before the Corps of Engineers several years ago, it's not just Nebraska City, it's just not Nebraska, but for this competitive issue with grain prices, many farmers from eastern Colorado drive to Nebraska City to this river terminal to bring their grain here and then back-haul the fertilizer that's available here, so it's not just Nebraska, it's an entire region. Thank you.

MR. MOORE: John James?

MR. JAMES: My name is John James. I live a few blocks away from here in Nebraska City. As an owner of land that runs alongside the Missouri River and is subject to flooding when the river rises above the river stage (sic) of about 17 feet in Nebraska City, I'm very concerned about the proposed changes to the Master Manual. I'm concerned that too much attention to the piping plover, the least tern and the pallid sturgeon will distract the Corps from their consideration of potential flooding

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situations. I'm also concerned that attempts to somewhat mimic the natural spring rises of the river will lead directly to overflows of our land and the land of other farmers up and down the river. I'm concerned that overflows will flood our crops and prevent the land from being productive and cause degradation to the banks and cuts and erosions to the fields.

FC 8

I urge a conservative approach to revising the Master Manual where flood control will remain of the utmost concern. I would urge less drastic measures of biological management in trying to fluctuate river flows solely with biological effects in mind. Let's try to remember, there are other interests involved in the management of reservoir releases, such as farming interests, navigation and hydropower. Thank you.

MR. MOORE: Marian Maas?

MS. MAAS: Good evening. I'm Marian Maas, I'm a member of the Board for Directors for the Nebraska Wildlife Federation, which is an affiliate of the National Wildlife Federation.

While I acknowledge that we cannot

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go back to the time of Lewis and Clark, I would like to refresh your memories as to exactly what we have lost in regard to the river. It was a very sandy, braided, meandering river that extended 2,500 miles and through, generally, a floodplain that was quite lush and diverse.

When Lewis and Clark went through, it was -- it averaged about two and a half feet deep and was anywhere from a thousand feet to a mile wide. It is now anywhere from 14 to 16 feet deep, 600 feet wide and there's virtually no remaining backwaters or wetlands or chutes. These backwaters were very valuable for the fish, for invertebrates and to provide nutrients for the river/aquatic inhabitants. Only 10 percent of these original adjoining wetlands remain in the entire basin south of Sioux City to St. Louis, and this has resulted in an 80 to 90 percent decline in vegetation and insects available to the aquatic life. Also, in the past, there used to be approximately a hundred acres of shallow water habitat that was available in each river mile for the young fish for nursery purposes and for development. Today, there's only one to three

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1 acres available. And through channelizing and
2 straightening, there's a hundred river miles
3 that have been lost. So we've traded away an
4 incredibly diverse landscape, which we know we
5 cannot get back totally, but we do need to work
6 to replace some of what has been lost.
7 We've also lost a thriving
8 commercial fishing industry, which is an
9 economical aspect that should be considered.
10 And, culturally, something that hasn't been
11 mentioned tonight is that there have -- we have
12 given up a central connection between the people
13 and the rivers that they live near. And this
14 connection really goes back to the dawn of
15 humankind when people would settle along beside
16 a river. We are separated, generally, from the
17 river by high levees and a fast-moving channel
18 of water that cannot be accessed easily.
19 Opponents of change to the Missouri
20 management calls -- they call for a, quote,
21 balance of the needs of humans and wildlife and,
22 essentially, for the last even up to 150 years,
23 there has been more emphasis on managing it for
24 people than for wildlife.
25 The Nebraska Wildlife Federation

Other
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1 supports a Missouri River management plan
2 that would better balance the uses of the
3 Missouri River and begin to restore fishery
4 and river-related wildlife. Our organization
5 recognizes that the entire health of the
6 Missouri River was shaped by its flow regime
7 and that changing the flow pattern of a river
8 must be an integral part of the recovery plan
9 and this has been substantiated by scientific --
10 sound scientific work.
11 We support the resumption of spring
12 rises in the river's flow and, therefore, we
13 support GP2021. We believe it will help to
14 provide important spawning cues, not just for
15 the pallid sturgeon, but for a lot of your small
16 native fish that you never hear anything about.
17 Then this needs to be followed by low summer
18 flows which provide nesting and chick-rearing
19 possibilities on the rebuilt sandbars, and
20 allows for the larvae fish to grow and mature.
21 The Wildlife Federation also
22 supports strongly the restoration of the
23 river and the floodplain habitat. And, as
24 was mentioned earlier, the Hamburg Bend
25 project has been a great success, and we

Other
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strongly support funding for restoration efforts of this sort up and down the Missouri as much as possible. This also increases wildlife -- recreational opportunities, as well as the wildlife diversity, and already Game and Parks fishery biologists have found an increase in the number of species and the diversity of species in that Hamburg Bend project, and it's only four to five years old.

Eastern Nebraska is relatively water-poor and has little access to the -- to the water. And restoration projects like this where people can get down to water that is not fast-moving and has good habitat, allows for a greater increase of recreational opportunities and, actually, increases revenue for communities along the river, such as Blair, Nebraska City, Omaha. People have to have meals in restaurants, they have to buy outdoor supplies, they have to buy bait, anything like that will help to improve the economy of the towns along the river.

The Wildlife Federation also supports continued funding for incentive programs to buy out flood-damaged property

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owners rather than them rebuilding in the floodplain and to provide a fair and good value for easements, or buying out people for development, so we do encourage the Corps to re-evaluate, as was mentioned earlier, the prices that they offer the property owners and farmers that the values that they offer is really worth it for the farmer to follow up and take advantage of.

And, lastly, the Federation supports the reservoir unbalancing, the adaptive management and intensive biological monitoring. And I am a professional biologist, so I support the monitoring very much. Thank you.

MR. MOORE: Brice Andrew?

MR. ANDREW: I wish to pass.

MR. MOORE: Corky Jones?

MR. JONES: My name is Corky Jones. I'm a farmer from Brownville, Nebraska, also representing the American Agriculture Movement, and I'm also representing an endangered species, and that is the family farmer that's up and down the Missouri River that we're talking about tonight.

We've been threatened in the

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past with manipulation of the water releases by the Corp of Engineers. It has absolutely annihilated the productivity of literally thousands of acres, the water (sic), some of this -- or of land; some of this is included in the operation of my own. I've got three sons that are fifth generation farmers in this area. I'm not new to the farming game and I'm not new to the Missouri River, and we've had people testify about the lack of fish and the lack of wildlife. I'm there, the wildlife is there, the fish are there, the ducks, the geese, they're there. In fact, the endangered birds that you're talking about, the least tern and the spotted (sic) plover, they're there. It isn't that we annihilated everything, maybe they're not there in the numbers that were there a hundred years ago, but look at the changes throughout life, look at the changes throughout the entire United States, or the world, there are changes. We're not annihilating anything. They're just maybe not to the abundance that it was, and when we think about going to make this big hatch for the birds or the fish by trying to tame and control the Missouri River, it's

Other 7, 70, 218

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impossible.

We see the streams that contribute below the dams that are fluctuating this and when we have high rise -- which I and the farmers that are all along this river operate are opposed to your spring rise -- it not only annihilates our capability to plant at that time, but it backs up and has trap water back in our protected areas and the lowlands, and then right when we would like to have, possibly, a little water in the hot summer, in July and August, you're dropping it, so it works as a double whammy to production agriculture.

To annihilate or to slow up the barge traffic, to change it in any method, once again, it's been testified to before, 10 to 15 cents a bushel, that affects us at a time when the economy of production agriculture is really at stake.

I think navigation is important. I think that recreation is important, but it's there. Maybe not to the extent that some would like, but you can't have everything, and you can't just use the entire Missouri River for a gauge. So I would really ask that you look at

Nav 30

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this real hard, that production agriculture is the backbone of this nation and it damn well is the backbone of the economy of the Midwest, and all up and down the Missouri River.

I'm opposed to anything that's going to change the rise in the spring and the -- and the -- well, the same -- that affects the control of the river. Thank you.

MR. MOORE: Rich Andrew?

MR. ANDREW: Colonel, I'm Rich Andrew, Brownville, Nebraska, and I'm opposed to any deviation from the current water control plan, and I feel that it's unfair to raise the river in the spring and lower it in the summer when many farmers up and down the river have obligations to meet, they have farm payments, some of them, and taxes; we all have property taxes to pay that help support our schools and our infrastructure, locally, and we would bear the brunt of any of this through loss of income. With many of these people making testimony for the fish and wildlife, their wage goes on. When the river is high and we cannot plant and raise a crop, we have no wage. So I am against this on an agriculture point of view,

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and for navigation, to reducing the price of our corn 10 to 15 cents, and, for many of us, 30-, 40- $50,000 a year of lost income. Thank you.

Nav 7

COMMANDER UBBELOHDE: Could you state whether or not you're speaking on your own behalf or representing anyone?

MR. ANDREW: Yes, I'm a farmer and I'm vice president of a little local levee district in Brownville.

COMMANDER UBBELOHDE: Thank you very much.

At this time, I'd like to recognize another elected official who has just showed up. State Senator from Nebraska, Mr. Roger Wehrbein.

SENATOR WEHRBEIN: Yes, I'm -- excuse me, I've being talking all week, too much. My name is Senator Roger Wehrbein. I represent this district from Nebraska City north to the Platte River, and I'm here not to go into a lot of details because I -- there's people here and I just arrived, but I know that they have much more detail and information than I have.

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My main purpose is to be here to look at this from a balanced point of view. I think we all recognize change is inevitable, there's going to be some changes, but it ought to be gradual, so people can adapt to this, so we can recognize where we're at.

Other 7, 10

I'm a farmer. We desperately need competition. Rail versus barge traffic is -- I can go on and on about the concentration and the lack of competition that's going on in the agriculture industry today. Barge traffic, this river, navigation, is critical for competition against railroads. I'm not going to harangue against railroads, but they desperately need competition. We've got two railroads in this country, namely, today. And if we lose one of those, or if we lose north/south access, which this river provides, it's going to make a big difference. So my main concern is to look at this in the big picture. Maintain a balance, make these changes so that they're gradual so they can be adopted, too, but recognize that there's lots of interest in this river and that we need to recognize all of those interests and don't just make abrupt changes so that there's --

Nav 6, 8

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we can't adapt because, obviously, there's changes occurring.

But, most importantly, recognize all of these uses of the river. I was very discouraged to see -- I don't know when it was, the last six months to a year, someone said we simply out to buy out the barges on this river and wipe them out. I think that's a terrible attitude. And I think that we ought to preserve what we have. Let's improve it, we need to probably make some improvements and recognize all interests, but let's do it so that we all can understand why and make it reasonable.

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COMMANDER UBBELOHDE: Thank you, sir.

MR. MOORE: Vince Shay?

MR. SHAY: My name is Vince Shay, I'm the state director for the Nature Conservancy and I live in Omaha, Nebraska. The Nature Conservancy is an international, not-for-profit organization whose mission is to preserve plants and animals and natural communities that represent the diversity of life on earth by protecting the lands and waters they need to survive.

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I'm the state director for the Nebraska program. We have about 5,000 members in this state. I'm not -- I'm not going to presume that I'm here representing all 5,000 of those members. I appreciate having the opportunity to be here and to listen to other people's opinions with respect, and I actually appreciate the opportunity to be here to enter my opinions to others and to share them with the respect that they deserve.

Whenever I speak to groups, I tell them why our work is important, you know, I talk about the rationale for species conservation and I explain that native plants and animals hold enormous promise for undiscovered types of medicines or food or fiber, and I assert that native grasslands build soil health and prevent erosion, and I remind people that wetlands act as natural filters, removing water-borne contaminants, and the floodplains serve as natural reservoirs for high river flows by capturing, containing and slowly releasing water, thus mitigating flood damage downstream. And yet I know that while most people appreciate these diverse ecosystem benefits, these are the

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components that appeal largely to our rationale selves. And I also recognize that people are motivated more by what they feel than by what they know sometimes. And I think that motivates, you know, a turnout of an audience like this.

You know, people appreciate that these same plants and animals are simply interesting, in and of themselves, for the color and the sounds and the sights and tastes and fragrances that they provide in our daily world. They recognize that a world with natural diversity of prairies and rivers and wetlands and woodlands and cropland and cities makes our world a more interesting and enjoyable place to live, work, and a place to raise our children.

While it's easy to tell people about the Nature Conservancy, who we are and how and where we work, and what we do, which is what I spend a lot of my time doing, it's much harder to explain why we do this, because for each of us who are concerned with the conservation of habitats and species, the motivation is somewhat different. But, candidly, I think that there's something deep within many of us that motivates

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us to care about and protect the natural world that surrounds us. And while I hesitate to draw connections of this sort, I'm going to hazard it and I hope that the audience will understand what I'm trying to say and will bear with me.

You know, the awful scenes that we witnessed on September 11th are going to be etched into our collective consciences for a very long time. What we saw was a catastrophe of a magnitude that we still have difficulty comprehending. We experienced a terrible and tragic loss of life that most of us, you know, witnessed with a gut-wrenching sense that the very fabric of what we hold dear was violated.

There are many people who care deeply about the non-human expression of life on earth, too, and they feel the same sort of lingering emptiness, frustration or even anger that the continual erosion of habitats and their inhabitants that have been part of life on earth for thousands of years.

So I don't mean to diminish by one iota the awful magnitude of what our human community experienced on September 11th, but I would suggest that globally we are experiencing

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a terrible wasting of the very fabric that constitutes life on earth.

People who support the work of species conservation see this loss of life and they're motivated by the tragedy of it. Extinctions of species is a natural process, it's well-supported in the fossil record on earth, but the current species extinction crisis that we're experiencing is the first such occurrence that's been caused by the choices of organisms, us, who are living right through the middle of the crisis.

I would suggest that we really do need to attempt to conserve the diversity of life on earth that remains. This is a country that is rich enough that we can afford not to lose any more species in the pursuit of other kinds of economic wealth and security.

I want to say that success -- to successfully conserve species, there are a couple of basic premises that we have to understand. First, you can't do it in zoos, and you can't do it in laboratories. These species are a result of their own development in their native habitats, and the interactions

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with other species who share these habitats. Indeed, the conservation of species must include conserving their habitats. And this is my second point.

We must also conserve the natural conditions that created and sustained these habitats. You can't have native grasslands without fire and grazing. You can't have native woodlands without wind storms and insects. And you can't have rivers and the species they contain without allowing them to retain some of their essential characteristics. Habitat mitigation funded through congressional appropriations is addressing one of the critical problems on the Missouri River, the loss of habitat structure and channel diversity. The other critical problem is the loss of the natural ebb and flow of the river which must be addressed through the Master Operating Manual. There isn't any other way to do it. So if we're to preserve the benefits of flood control and hydropower production and take steps to restore some of the pre-dam flows of the river essential to the species that depend upon them for survival, I think we must adopt the provisions

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Other A, 7

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for flow changes provided for in the Gavins Point alternatives. Thank you for the opportunity to comment.

MR. MOORE: Ken Reitan?

MR. REITAN: Good evening. I'm Ken Reitan and I live in Lincoln, Nebraska, and I'm here representing myself. I strongly support your GP2021 alternative, but I am disappointed that the Corps did not select this one as their preferred alternative. You had a legal responsibly to do this, but you ducked the responsibility.

Legal 105

Political statements aside, the fact of the matter is that GP2021 will maintain, with very little change, the present benefits of flood control, hydropower and navigation. The Corps has admitted this. On the other hand, these small changes will help to turn around a natural system that was once one of the continent's most magnificent natural systems.

You have a legal responsibility to make sure that the individual biological components of that system do not disappear, not only for the species themselves, but also for the recreation benefits, which are much greater

Legal 106

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from a dollar standpoint than, for example, navigation.

With the Lewis and Clark bicentennial approaching, we need to begin the process of restoring this great river. Some people fear change, but the -- but the flexible nature of GP2021 should allay those fears. I urge you to select GP2021 as the new operating plan for the river. Thank you.

MR. MOORE: Dale Dilts?

MR. DILTS: Good evening. My name is Dale Dilts and I reside in Crescent, Iowa. I have spent all of my life farming down next to the Missouri River, within a half-mile to a mile. We farm around 2,000 acres and the high water release will definitely hurt business to keep my family in the farm business.

My grandfather farmed there and my father went through the big flood in '54. That year, there was enough time to get back into the fields and get the crops started. But there's one thing that nobody has brought up tonight and that's the four species. There's always three, but where's the fourth one fit in? That is the family farm. And the stewards of the land --

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Other
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excuse me, I'm very nervous, I wasn't prepared for this -- but, as stewards of the land, the farmers do quite a bit for wildlife. From pheasants to geese to foxes, opossums to birds, the sparrows, just -- it covers a wide variety. And by hurting the family farmer, you're also hurting the other species. And I have four kids and I'd like to pass my farm down to one of them. And with the high water potential, it would put me out of business, and that would allow me not to do that, and that's it. Thank you.

MR. MOORE: Harold Rush?

MR. RUSH: I am Harold Rush from Highland, Kansas. I am possibly the oldest person here. I can go back to before 1930.

I do not live on the Missouri River, I live close to the Missouri River. I have lived close to the Missouri River all of my life. And I can tell you what the Missouri River was like before they started, in 1933, to improve it. The Missouri River was nothing except a wandering, mad river and an ice gorge during the winter would change the course as quick as anything you ever saw. Now, the main

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thing that was on the river at that time was carp and bullheads and maybe some pallid sturgeon and maybe a few flatheads, but the main fish was carp and bullheads.

In 1993, when we had the flood, I took -- was with the farm group, and when the levee broke at St. Joe, I was on the group to inspect the levee situation, and damages. I went to a road ditch that was drying up to see what the dominant fish was in the area, and it was -- to my surprise, it wasn't carp and bullheads, it was crappie. Did you ever know there was crappie in the Missouri River?

We're upgrading our wildlife in the Missouri River. I have fished in a creek 15 miles above the Missouri River and I caught a white bass. And it dumbfounded me to think that there was a white bass in my creek. There was a white bass in there because they were being able to live in the Missouri River. Now, the greatest thing that has happened for the economy and the ecology was no-till farming and don't never forget it. And that has been the greatest thing to improve the water quality of the river.

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I think 1528 is perfect as far as the controlling of the river. During the summer there's an awful lot of people who fish at the mouth of the tributaries and that is the only recreation they get, you might say, for local recreation. And if you drop that water, there will be no what you call still water at the mouth of the tributaries.

Now, I would think that the pallid sturgeon could live in those tributaries also if they need still water. But it sounds like you've got to kill everything else off to save the pallid sturgeon. So, I don't know, it's got me buffaloed, because when this thing was started in 1933, it was for the purpose of irrigation, flood control, navigation and energy. And it has served that purpose real well, we've done a good job controlling it and getting it to the point that we're at today. My problem is that I'm afraid that one of these days they're going to open a can of worms that they can't get the lid back on. And we're getting close to that right now. And I hope that you keep the lid on and you don't get that worm crawling out. It's bad. Thank you.

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MR. MOORE: Bill Beacom?

MR. BEACOM: My name is Bill Beacom. I am a captain on a tow boat. I am representing myself.

One of the things that seems to jump up at these meetings is that everybody wants to hang their hat on, quote, unquote, sound science. Four hundred and seventy-eight (478) references, 36 of this, 27 of that, 6 of this. I could get that many people to say that lightning curdles milk. If we're going to do sound science, let's do sound science.

Other
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I have a little story to tell you. There was a gentleman by the name of Jerry Rasmussen who used to be the coordinator for 28 states in the Missouri River Basin. Someone wanted to put into the basin a fish called the black carp, and that fish was a known destroyer of ecosystems, but someone else was going to make some money off of that black carp. This was a non-native fish from Asia. Now, Jerry Rasmussen went to the 25 states or 28 states that he represented and said, this is not a good idea. Many of the people in those states had already decided it wasn't, so he started

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lobbying forcefully not to have the black carp. Within about six months after this effort, he was removed as coordinator for these 28 states by Jamie Carr, who was then the head of Fish and Wildlife, and the reason that he was removed was because of a conflict of interest. He was for the environment and she got pressure from a senator; that's a conflict of interest.

Now, this sound science that we are asked to believe is all written up by the people in the three upper basin states, or the vast majority of it. And what would happen if one of those people would go against Senator Daschle, Senator Bonness, or one of the other high people in authority in those states? Can anyone say that they're not biased? They're employees in that state, they have friends in that state, they work for the state government in that state. If someone wants to give me permission and a budget, I'll join with the farmers and we'll hire our scientists and we'll get 560 references, if numbers matter. And does anybody mean -- does that mean that our science is going to be any better than anyone else's? But, at most meetings, you do see that example

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of sound science and I have seen one tonight. The environmentalists are very much in favor of anything that will improve the environment as long as it doesn't cost them; it just costs the navigators and the farmers. Now that's sound science.

Other 7, 22

MR. MOORE: Darwin Binder?

MR. BINDER: I'm Darwin Binder. I'm speaking as an individual.

My family and I farm in Holt County, Missouri and we oppose the spring rise and the summer low flows and all of the Gavins Point options. We would like to see the current plan for operating the Missouri River continue, uninterrupted. We don't believe that it can be proven that an increased flow will help the pallid sturgeon, but we feel that even a small rise in river levels could take a third or more of our land out of production. Thank you for the opportunity to speak.

Other 6, 48

MR. MOORE: Carl Jones?

MR. JONES: I'm Carl Jones from Lincoln, Nebraska and I'm speaking for myself.

Tonight, I thought I'd talk just a little bit about the pallid sturgeon and we all

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know that, you know, they're one of those endangered fish. These fish like muddy rivers and essentially swift-flowing rivers. They're known to avoid areas, particularly the juvenile adults that are stillwater, and prefer the ends of the wind dikes where there's some current. They're a warm water fish. They have to reach an age of probably seven-plus years before they're ready to spawn. They like to lay their eggs attached to rocks or cobble, or heavy sand, in areas that there's a reasonably good current. The water temperature for them ought to be 60, 65 degrees, possibly a little more, and that should hold for least seven days or longer. The eggs about that point detach and start to float downstream and for the next 13 days or so that -- they're looking for or hope to drift into a situation of still water that has enough nutrients for them to survive and grow.

What I'm suggesting is, based on this, that we can look at what happened down at Lisbon Chute down to mile 212 to 214 where some young yearling sturgeon have been found.

Lisbon Chute was a natural

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creation, I understand, that you had to go in -- the Corps had to go in and add rock to to keep the river from moving over to that chute. The result was when you add a lot of rock, you add a certain amount of small stuff. Those finds were apparently washed out of the dike that was placed providing a bed below the dike where the sturgeon could lay their eggs, and there are some quiet water areas in that two and a half miles or so where the sturgeon could grow.

I think there are possibly three other chutes, and maybe more in the planning stages, and I guess I'm a proponent here of mitigation.

You have Boyer Chute mile 637, about eight miles below Fort Calhoun, which can add some warm water. I understand the current is a little faster in there for the kinds of things we're looking at, but maybe that can be built into and engineered as a chute similar to the Lisbon Chute.

Hamburg Chute is another one, it's about a mile or two below Nebraska City, the power plant. Again, a source of some warmer water, which is important for the sturgeon's

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Other
70, 218

spawning and development. There is a little problem, I think, having passed it a couple of times this summer, there's a little too much flow going down through there that's affecting the navigation channel at the lower end. And maybe that could be engineered to take on the configuration similar to the Lisbon Chute.

And currently they're working on the Langdon Chute, which is just below the Cooper Nuclear Plant, again, the warm water source that would be available. So here we are with a warm water fish, and if we look at the GPS (sic) releases, just looking at them, without going into detail, the GPS (sic) releases suggest that it's better for cold water fish than warm water fish.

COMMANDER UBBELOHDE: Excuse me, you're referring to the GP releases?

MR. JONES: The GP, yeah, yeah.

Since the pallid sturgeon and catfish are warm water fish, one could almost guess that the U.S. Fish and Wildlife Service is perhaps trying to increase game fish numbers on the lower river at the expense of the catfish and the sturgeon rather than saving those

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species. Thank you.

MR. MOORE: Don Jorgensen?

MR. JORGENSEN: Good evening. I'm Don Jorgensen. I'm a stakeholder. I'm from Jefferson, South Dakota. I live on the river.

Tonight I've heard at least four times that the GP releases are required to cue the spawn -- excuse me, the pallid sturgeons to spawn. That is not the case. The pallid sturgeons are spawning in the river; unfortunately, they're not spawning successfully. So the cue is not the problem.

EnSp 37

Last time I spoke about spring rises. Tonight I'd like to talk a little bit about summer low flow. Summer low flows will disconnect the chutes and other riparian wetlands from the mainstream. Now, we've heard the proponents of the spring rise will connect (sic) them, but I've heard no evaluation of how the summer low flow will disconnect them. It could disconnect them in the most critical and active time of the biological activities in our river, and that's when it's going to disconnect them. I don't think this is addressed in the RDEIS, okay?

Other 257

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Summer flows will dry up the wetlands in the floodplains during the summer and if you lower the water level in the river for two months, you're going to lower the water level -- groundwater levels, you're going to dry up the wetlands right in the middle of the summer in the most important activity, biologic activity stage. Summer low flows will result in WAPA having to buy additional electricity and this electricity probably wouldn't be environmentally-friendly hydroelectricity, it'll probably be fuel -- fossil fuel electricity, and it's going to cost $30 million a year.

EnSp 59
HPower 18

The cost of power to pump water from the Missouri will -- the cost of power to pump water from the Missouri by cities, irrigators, municipalities will all increase. And I don't -- but that is addressed in the RDEIS. But the cost of power to pump groundwater by irrigators, all towns in the floodplains, because of the water level in the aquifer will be lower, that is not addressed, I don't believe, in the RDEIS.

WS 5

Obviously, it's going to hurt river

navigation. It's going to take more fuel to move the same -- the same amount of goods. And what's this hopefully going to do? It's going to put more carbon dioxide in the environment, it's going to affect acid rain, et cetera. I do not know if that's addressed in the RDEIS, it's a rather extensive document which I haven't been able to get completely through.

Nav 23

If there's not enough cooling water for our power plants to get through, this might have an important effect on the availability of power in the middle of the summer. And the low flow in the summer will require a large flow to evacuate the reservoirs at the end of the summer, and the routing of this high flow at the end of summer may not be an environmentally-friendly thing, or an easy thing, for the Corps to accomplish.

MoPower 1

In summary, some changes, obviously, have to be done. We have to increase habitat, we have to consider our environment, but the summer flow low (sic) -- excuse me, the summer low flow may be the Missouri River's Chernobyl.

COMMANDER UBBELOHDE: Excuse me,

can you elaborate on the point regarding the evacuation --

MR. JORGENSEN: Because --

COMMANDER UBBELOHDE: -- the late summer evacuation?

MR. JORGENSEN: Yes. I'm saying that because of the summer low flows, then, later in the year, the Corps will evacuate more water to get the pools in the correct position for next year's water coming down. I'm saying that this may cause some problems to the Corps in routing this water.

COMMANDER UBBELOHDE: Thank you.

MR. JORGENSEN: Thank you very much, sir.

MR. MOORE: Bill Neal?

MR. NEAL: Good evening. My name is Bill Neal. I'm the division manager of Environmental and Regulatory Affairs for Omaha Public Power District in Omaha, Nebraska, and the comments I'm offering tonight, although brief, will be on behalf of OPPD.

First, let me briefly, again, thank the Corps for their responsiveness in holding these hearings. We've also found the Corps,

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for years and years, to be a partner. For sake of brevity and in light of those that want to speak following me, I'll keep my remarks very brief and strictly limit them to power plant operations. I will offer, first of all, by saying that we support the testimony offered by Roger Patterson, the Nebraska Department of Water -- excuse me -- Natural Resources. And we share the opinions that he offered in there.

So why is OPPD concerned about the revised plan? We've been saying the same thing for 12 years and Roy was younger then and so was Larry and so was I, and we've been consistent in our testimony. We do not know, nor does the Corps, what this plan is going to do with regard to impacts on thermal power plants. Spring rises, probably not a big issue for OPPD; it is for others in this audience here today. Our deepest and biggest concern is what is the effect of the reduced summer flows, if that is the plan that is ultimately adopted, going to have on ambient temperature of the river. Our power plants were designed to operate at as low of a CFS as 8-, 9,000 for cooling water supply, or as high as 100,000 in a flood situation, but

MoPower 1

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our plants were designed and built and designed on the basis on 85-degree historical river temperature.

We do not know, nor does the Corps, nor does Fish and Wildlife, what the temperature will be in a new river that might be friendly to pallid sturgeon or terns and plovers, but it may not be friendly to power plant operations if it's at 87 degrees instead of 85, as an example.

We've provided information to the Corps over the years. We've taken some estimates and added a two-degree increase in historical highs, from our power plant operations, and I'm specifically referring to our three baseload plants on the Missouri River, our Fort Calhoun nuclear station and our North Omaha operation, which is six coal-fired plants, and our large plant here at Nebraska City, out of that 1800 megawatts in order to continue to comply with EPA Clean Water Act and the MPDS program limitations, we would have to dereg those plants by about 200 megawatts at a two- to three-degree increase in ambient temperature.

We don't know what it's going to

MoPower 1

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be. We've said this for 12 years, and that needs to be included in this evaluation. And if the answer is the Corps doesn't know, then we would encourage the RDEIS to simply state that, that we do not know and it will be a part of the management plan, a monitoring process.

MoPower 1, 3

If the river would get to 90 degrees as an example, worst case -- I don't envision that happening, but, again, I don't know the answer, and I don't believe the Corps does either -- the Platte River and low summer -- the -- flows will be at 90 degrees, these thermal plants would have to be shut down.

MoPower 7

Now, these low flow situations would come during a time, July or August in all likelihood, when we would have to de-rate and somehow we'll find power to replace it. That's very difficult. Those other plants will be in the same situation and that's the worst time to try and buy power on the grid. It could be $1500 a megawatt, it could be 50-, we just don't know.

So I'd like to close my remarks here by simply saying, there's a lot of unanswered questions here tonight. There's

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issues raised in the ESA, spring rises, habitat, they're all valid concerns. We hope that in this process we don't lose sight of the plants that we operate for the benefit of our customers in this room because those are real concerns and we'd like to continue to be a low-cost provider of reliable electricity. Thank you.

COMMANDER UBBELOHDE: We've been going at this for a little over two hours. I'd like to take a 10-minute break.

(Whereupon, a short recess was had.)

MR. MOORE: Ken Cratty? Ken Cratty? (No response.)

Jerry Martin? (No response.) Joe Citta?

MR. CITTA: Good evening. My name is Joe Citta. I'm the environmental manager for the Nebraska Public Power District and my comments are representing the position of Nebraska Public Power District on the revisions to the Master Manual.

First of all, I'd like to thank the Corps for the spirit of cooperation, not only tonight, but also in the dealings that NPPD has had with the Corps on this project. I would

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also like to support the testimony given by Roger Patterson on behalf of the position for Nebraska. I did submit this evening several comments that will be preliminary comments that we've done on the RDEIS as far as NPPD. We will be submitting more detailed comments once we continue further evaluation of the information. Again, we plan on doing that prior to the cutoff sometime in February.

For the sake of brevity, I'm not going to address all of the comments we've submitted tonight pertaining to hydropower, the thermal generation, adaptive management, et cetera. For the sake of brevity, I'm only going to address a couple of our concerns. Those are with the -- the evaluation of the effects of power generation and its impacts to the region, both for hydropower and for the thermal generation located on the Missouri River.

We feel that the Corps has not adequately addressed both the amount of potential loss of generation and, also, it has not addressed the potential economic impacts to the area and the potential impact to the customers and the rate payers in Nebraska. As

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an example of this, I'd like to offer, in the Nebraska City reach, that's the reach of the river where our Cooper Nuclear Station is operating, the RDEIS represents or mentions the various options and mainly the GP options would have an effect on capacity of approximately three megawatts to approximately 50 megawatts of impact. NPPD feels that due to the temperature limitations of the EPA and the NDQ that's set for the operation of the power plant which is based on the ambient river temperatures, we feel there's a lot more potential megawatts at risk. In fact, once -- if the river temperature would reach 90 degrees Fahrenheit, we would actually have to curtail the entire operation of our Cooper Nuclear Station, which is 758 megawatts. Therefore, we do not feel that the RDEIS has adequately addressed that.

As far as with -- if the temperature of the river would reach 90, NPPD feels there's a distinct possibility, given the reduced flow in the summer, that this is -- this could occur. We have witnessed, in fact, this last year we've measured temperatures on the Missouri River, ambient, in excess of

MoPower 1, 3

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89 degrees. Therefore, we feel that a reduced flow could actually cause that to reach 90 in which we would have to curtail operation which could result in tens of millions of dollars worth of additional costs to our consumers.

I'd like to thank you for the opportunity. We would request that the Corps does re-evaluate the effects to power generation and we would be glad to provide any information that would help them in that endeavor. Thank you.

MR. MOORE: Ken Cratty?

MR. CRATTY: My name is Ken Cratty. I'm from Omaha, Nebraska and I'm here representing myself. I was not quite prepared for this type of formal hearing, I just came down because of the opportunity to come down and hear what was going on.

I've heard a lot of pros and cons about adjusting the river water flow throughout the season. My main concern is I'm a recreational boater and there's not been many people talking about recreational boating on the river.

The low summer flows pretty much,

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since this is going to shut down the navigation, it's pretty much going to end recreational boating on the river. You would not be able to get any boats in on the ramps, and the people that own the larger cruisers would not even be able to get in the water at the marinas. The marinas would have to shut down, which would basically put them out of business, so the economic impact would go all the way from -- up and down the river.

Nav 12, 45

I feel that the water flows and the navigation season should be maintained and that other alternatives should be looked at to increase the wetlands and the wildlife habitats up and down the Missouri River so it benefits both the animals and the habitat, and the recreational boaters on the river.

Nav 51

They're talking about increasing the -- that people are wanting to go back and do more fishing on the river and have a healthier river. This I just thought of tonight when I was listening, that on a yearly -- almost a yearly, if not twice a year, I know for a fact, in Omaha, that there is raw sewage dumped directly into the river. Now, who wants to eat

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fish coming out of a river that's got millions of gallons of raw sewage going into the river? That has nothing to do with the river flows or anything, but that's -- I mean, I don't know about that. There just has to be an alternative figured out that's going to basically make everybody happy.

Rec 31
Fish 16

I'm for conservation, I'm for wildlife, but I'm also for being able to enjoy the river recreationally the way I'm used to doing it. Thank you for your time.

MR. MOORE: Jerry Barton? (No response.) Randy Asbury?

MR. ASBURY: Good evening. My name is Randy Asbury and I'm executive director of the Coalition to Protect the Missouri River. This coalition represents a diverse group of 28 agricultural, navigational, utility, industrial and business-related entities, all of which are or represent Missouri River stakeholders. We support responsible management of the Missouri River resources and the maintenance of congressionally authorized purposes of the river, including flood control and navigation. We also support

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habitat restoration for endangered or threatened species, to the extent that it doesn't jeopardize humans or their sources of livelihood.

Floodplain farmers till some of the most productive land in the world. They also face natural risks of flooding and inland drainage problems. Too much moisture is as detrimental to crop production as too little moisture. For this reason, we are greatly concerned with the spring rise alternatives. Man-made river flows that will increase the risk of flooding or inland drainage problems along the Missouri or its tributaries are unacceptable. In today's difficult agricultural economy, farmers can't withstand man-made events that compound the natural risk inherent as a part of farming. Overwhelming species benefits would have to occur for this risk to even merit review. Corps data indicates just the opposite will transpire.

FC 8
IntD 8
GW 7

Corps data shows a Gavins Point release of 20,000 cfs will raise river levels in Nebraska City by four point three (4.3) feet, on average, once every three years. It takes 10 to

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11 days for any releases from Gavins Point to travel to St. Louis. The Corps admittedly doesn't have the technical capability to forecast a rain event or rain runoff. In spite of this, we're expected to trust that once an additional four point three (4.3) foot of water flows towards Nebraska City, no major rain event will occur that will combine with the artificial rise to create the flood conditions or inland drainage problems that we have envisioned. Any flood event is a significant event for those who experience it. And for what reason are we asked to accept this risk? The promise of additional sandbar acreages so small that they can be created with dozers and draglines, or that the pallid might spawn? The inadequate claims for species improvement don't justify the far-reaching risks of these proposals. It's apparent that a cost-benefit analysis of these proposals shows the threat of financial catastrophe to agricultural interests far outweighs any species benefits.

FC 39

Other A, 48

Accordingly, no logical justification exists for the increased exposure for flooding and inland drainage

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problems that may occur on one point four million (1.4) acres of prime farmland. Federal agencies also can't rationalize that potentially affecting approximately 30,400 buildings worth approximately $17.6 billion to create less than 164 acres of bird habitat and the fish-spawning cue that may or may not help the pallid sturgeon is reasonable and prudent. Arbitrary and capricious is a more apt description of this process.

We are also extremely concerned about the negative effects that the low summer flows in the GP alternatives may have on power plants along the Missouri River. These plants may be faced with noncompliance with thermal discharge requirements to the Missouri River if the GP alternatives are adopted. This could require reductions in power production at a time when it is most needed, the summer peak demand periods.

MoPower 1, 3

In addition, the lowering of the river in July and August could force the construction of new cooling towers that would cost utilities hundreds of millions of dollars. It's reasonable to assume that these costs would

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have to be recovered in the form of increased electricity rates for consumers. However, the negative impacts to electricity consumers resulting from the GP alternatives would not be limited to downstream states. There would also be increased electricity costs to consumers of Western Area Power Administration power in the upstream states as well.

Because the GP plans call for the reduced releases of water in July and August from various hydropower dams, there would be a decrease in hydropower production in upstream states for consumers of WAPA power; WAPA officials estimate an approximate $30 million decrease in revenues due to the decreased hydropower production. This is also a cost that would ultimately be borne by the consumers. The consumers of WAPA power in the states of Nebraska, Iowa, Minnesota, both North and South Dakota, and Montana would be faced with increased electricity rates under the GP plans.

HPower 18

Consequently, of the six alternatives under consideration, we must support the current water control plan as

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the option of choice. Agriculture, navigation and any energy suppliers and consumers should not have to labor under the burden or accept the risk of any adverse consequences resulting from proposals based on speculation and producing negligible or indifferent results. Our coalition urges the Corps to continue with the current water control plan. Thank you for the opportunity to testify.

MR. MOORE: Robert Schemmel?

MR. SCHEMMEL: Colonel, my name is Robert Schemmel, I live in rural Nebraska City. I'm representing myself. I'm a riparian farmer and landowner of land that's below Nebraska -- downstream from Nebraska City, and it's been known for years as Schemmel Island. So much of this has been covered quite well with you, but there are a few points that I'd like to bring out.

I started developing a fascination for the Missouri River way back in the spring of 1933 -- '34 -- no, the gentleman before was '33, that's downstream. I saw the first pylon being driven in an area of where -- in this area where it was stabilized, and I might say that the

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channel is placed in a series of bends all the way to Sioux City, and I fail to see how it's shortened it from that standpoint.

Now, it was 99 percent complete about the time World War II started, and it was completed -- it was -- it was 99 percent complete to Omaha, and a lesser percentage on up from Omaha to Sioux City. And it -- then it was completed after -- after the war, and, of course, the Pick-Sloan plan, and I have documents to bear out the -- what Congress was thinking about in their deliberations. And one of the things that was interesting to me was the fact that they were considering the Missouri River in relation to national defense.

But, anyway, I lived through all this and developed an appreciation for the Missouri River. I think over the years the Corps has done a good job. And I'm strongly in favor of the current water control plan. Let's not change it. I object very strongly to the spring rise, and one of the things I'd like to point out -- the other things have pretty well been brought out -- May 1st to June 15th, May and June are the heavy rainfall months of

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the year, and with that river up there not too far from flood stage, you can see the flood potential is pretty strong.

Now, there's some other things here. I think we're talking about this mitigation thing, and our property is just right across the river in Iowa from this Hamburg Bend mitigation area, and I think with the federal government already owning thousands of acres of land, riparian land, that that should suffice to take care of the endangered species.

EnSp 1,26

There are just too many negative things about the spring rise. And I have qualms about a lot of this land going out of public -- or private ownership into the public domain ownership by the -- or controlled by the federal government. But, anyway, that -- that should do it, I would think.

Other 7, 20, 124,218

Anyway, the Missouri mainstem system is a tremendous asset to our country and it's a wonderful natural resource, and I would hope that the right decision, and I feel the right decision will be made here to do it right. And thank you very much.

MR. MOORE: Doug Beckman?

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MR. BECKMAN: Good evening, Colonel. My name is Doug Beckman and I operate a corn and soybean farm near Glenwood in Mills County, Iowa. And I also serve as district director for the board of directors of the Iowa Farm Bureau Federation, and that's who I'm representing tonight.

I, along with a lot of other farmers along the river, have participated in meetings and educational sessions over the last several years to discuss options for managing the Missouri River.

The river is important to Iowans, and particularly to farmers, for many reasons. First, farmers are concerned about inland drainage and the impact it has on cropland along the river and behind levees. Farm Bureau has analyzed the potential impact of increased flows of the Missouri River on the economies of these counties and the number is astounding. Over 130,000 acres may see production losses if the flow levels are increased. This could cost the farmers in the region over $13 million. And I know that figure is higher than what was in the film earlier tonight, but these numbers are

GW 14

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based on crop production loss payouts by insurance companies and usually they're not going to give money away. This translates into a potential economic hit on the gross regional product of the five Iowa counties totaling about $21 million in the first year.

Farmers are also concerned about the potential impact on navigation of the Mississippi River. The Missouri River here provides more than half the flow of the Mississippi River and the Mississippi is an important route to access international markets for our commodities. Drive down any road in Iowa and imagine the impact if $78 per acre is eliminated because of our inability to be a reliable shipper or a supplier in the world markets. Plus, as was mentioned earlier, if we have reduced competition from shipping choices, costs are probably going to increase there as well.

Miss 4
Nav 7

Finally, Iowans are concerned about the proposed changes of flows in the Missouri River because of the impact it may have on power generation. According to the Iowa Department of Natural Resources nearly 40 percent of Iowa's

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generating capacity comes from the Missouri River. Low flows during times of high electric usage will threaten power companies' ability to deliver a reliable supply of electricity and increase their cost in doing so. And I know there's a chart back here that says that the electricity production won't be affected, but I think I differ a little bit because of what the high -- the spring rise, you're going to have increased electrical production, however, it's at a time when the need for that electricity is much lower. And we're going to have the low flow when the need for more air conditioning and more electricity is at a higher demand. So I think there's something to be looked at there. And, in the end, the consumer is going to have to pay the price, whatever that happens to be.

MoPower 1

I have several concerns with the proposed management alternatives in the options under consideration by the Army Corps with respect to the Missouri River. Before I outline those concerns, I'd like to stress a couple of points. First, Congress has clearly stated its interest in management of the Missouri River over the past several years, and it's on record

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in support of a balanced approach that does not make winners and losers in the Missouri River Basin.

Secondly, Farm Bureau is committed to finding a balanced management approach that addresses the multiple uses of the Missouri River and find workable solutions to the endangered species issues raised by the Fish and Wildlife Service. Unfortunately, only one option proposed by the Corps accomplishes this goal and that's the current water control plan.

Other 6

I offer these concerns with the options outlined by the Corps. All but one of the proposed options, which is the current one, includes some form of spring rise and summer low flows. In addition, the Gavins Point release options leave the door open for even higher spring rises and lower summer flows if it is determined that endangered species will benefit. Adaptive management is included as a component of all options, but the current water control plan and the role of the states and the public in this adaptive management is not clearly defined.

Other 3, 10

As with the Gavins Point release

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options, this opens the door to implementing flow changes to the detriment of the majority of the region. Most of the options start us down the dangerous path of increasing diversions and depletions from the Missouri River. This may benefit upper Missouri River Basin states at the expense of the lower Basin states.

Other 23

The drought conservation measures allows the Corps to store more water during times of drought but fails to look at the potential impact of a drought on the lower basin. Mississippi River navigation could be severely curtailed if low flows for endangered species are combined with drought conservation measures.

Hydro 43
Miss 4

As I stated earlier, the most balanced approach for managing the Missouri River is the current water control plan. We support the original congressional intent to balance the multiple competing interests along the Missouri River.

There is a better way, one that doesn't threaten the people and the communities along the river, or our ability to provide power during the peak summer months or harm our

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export markets or our million-plus acres of farmland. We should focus on voluntary habitat conservation and enhancement activities before we endanger the economy of an entire region for two birds and one fish. And on another chart back there, the fish isn't going to get a whole lot of help, apparently. Thank you for the opportunity to present my thoughts.

WRH 6
EnSp 3

MR. MOORE: Ned Nutzman?

MR. NUTZMAN: My name is Ned Nutzman. I used to farm, I'm retired and I live here in town now. I had a -- I think most everything has been said. I was going to read what Harold Andersen had written in the World Herald, and I don't know whether our friend is still around or not, "the American Rivers organization continues to peddle nonsense. The latest example of nonsense is that the Missouri continues to be America's most endangered river. Such exaggeration that comes usually with the term "endangered" does nothing to add to the credibility of the American Rivers Association." And I think quite a few other things that I was going to bring up have been said, and I also have the loss to the counties

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in Iowa. I -- I might throw in the last couple paragraphs. "If there's a way to enhance habitat for these and other natural species without diminishing any of the significant benefits, that is, farming, of the Missouri has brought to this great, this habitat enhancement -- enhancement measures should certainly be pursued. The Army Engineers/NRD project should be of significant help in this regard." In any case, it seems to me the needs of the human species deserves consideration at least equal to the species of the pallid sturgeon, and that's all I have to say.

Other 7

MR. MOORE: Duane Kelsey -- Keslie (sic) (phonetic).

MR. KELLY: Kelly. My name is Duane Kelly from Kansas City. I'm a retired school teacher speaking as a citizen. I want to talk about brains and ethics and I'll keep -- I'll bounce around.

We've got three pounds of brain a piece, and we claim to be the smartest of all of the creatures on the planet, and I think there's some question about that. Ethics and politics are not synonyms and we're playing a lot of

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politics tonight, we're playing politics with the river.

There are some questions, and one of them is -- that I have is why do we call a subsidy in the city welfare and welfare in the country a subsidy? How do we justify welfare for the rich? And I sympathize a great deal with the family farmer. We've all heard about, recently, the $27 billion that went to farmers, but most of it went to agri-farmers and people such as Ted Turner, who's not exactly a family farmer.

The Missouri River belongs to no one, it belongs to everyone. It was here before any of us were. It originally ran either into the Hudson Bay or the Atlantic Ocean. It was pushed down to its present course by the glaciers, so it's been here a long, long time. And I would like for us to focus a little more on the longer-range solutions than what I mostly hear tonight.

I challenge the Corps' conclusion that GP2021 would reduce the recreational value of this stream. I've been on the stream from Sioux City on down past St. -- past Jefferson

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City in Missouri. If the question is access to the river, it seems to me we could fix that, I mean, we've got access points now, you can extend them out. We've built super highways across the state, we can build a river ramp another eighth of a mile out. We can dredge the mouth of a marina that's maybe twice as wide as this room. I've been there. So I fail to see how recreation is going to be hurt by low flow in the summer.

Rec 10

This is a river that's over 2,000 miles long, therefore, it has over 4,000 miles of shoreline. In Missouri alone, its surface area is about that of the Lake of the Ozarks and that means we have lost about an equal square mile of water. And, of course, the Missouri River is closer to most people who live in many of these states than the big reservoirs are.

It's not only an ecological law but it's a question of ethics that there's no free lunch. If somebody gets something for nothing, somebody else gets nothing for something. That's unethical.

A lot of folks picked up about 60,000 acres along the Missouri in the state of

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Missouri, about half of the square mileage of the river, through government narrowing and channelizing of the river. They picked that up for free and so it sounds a little hollow to a lot of us that they're wondering, you know, what am I going to do when the water comes up. Well, what did you do before the water came up? There were no farms there, you didn't have that. So that was free land. My eighth grade teacher said that for every right you have, there is a corresponding obligation or responsibility, and I haven't heard anybody speak to that tonight.

I think my opinion is, the best possible use of the river is as a historical, cultural, recreational parkway. As more and more people go to the city, as the population keeps going up, I think that's the best possible long-range use of it and we'll see a lot more of that, hear a lot more about that during the Lewis and Clark celebration, which is coming up.

About a million and a half tons is transported by barge each year. If this went to zero, it would barely be a ripple on the pipelines, trucks and railroads that are

Nav 34, 31

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accessible in the area. It's not a big deal, not basin-wide. Along the river maybe, but not basin-wide.

To the Corps, and I mentioned this before, not to you, because I haven't seen you before, but I've been doing this a while, the EIS doesn't mention population. In order to get the right answer, you've got to ask the right question, and the right question might be, what's the source of all of these problems, and population is certainly one of them.

With three pounds of brain, we over-populated a lot of this area and put a lot of pressure on it. There may be ten million people living in the Missouri River Basin. These ten million people, or the people along the river, have put over $17 billion worth of building on the floodplain with three pounds of brain a piece. How do you put $17 billion worth of buildings where it floods? Floodplain is about as simple as you can get, flood, plain; it floods. It's like pitching a tent on the freeway and saying, gee, there's a lot of traffic out here.

Other 186

Now, then, let's look a little

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further down the line. In about a hundred years, Gavins Point reservoir is going to be full and all of your GP solutions are going to be down the creek, literally. In another couple hundred years, all the mainstem reservoirs will be full. And, then, as several people have said, we can't go back to the river of Lewis and Clark. We're going to be about back to the river of Lewis and Clark if they're all full. We're going to have some dandy floods for awhile.

Now, I think it's extremely ironic --

COMMANDER UBBELOHDE: Mr. Kelly, are you close to wrapping up? Your time has elapsed.

MR. KELLY: Yeah. I found it extremely ironic that I have no children, and if anybody in this room could afford to say who gives a rip, let it go, it'd be me. I'm looking farther down the road than people with children. I assume most of the people here have children and a lot of them have grandchildren, so the grandchildren alive today will have grandchildren that will have to deal with Gavins Point Dam being wiped out.

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It's a proposition as old as prostitution. I will do anything, anything, for a price. These fish and these birds have been here for millions of years. Draw a line, as long a line as you can find, and the paper to do it, and mark off, you know, let it represent one million years and tally up one person's lifetime. Our priorities are what? We weren't born with these priorities. Where did we get them? From our mother, from our families, from our schools, from our churches? We learned these somewhere.

Personally, I think that GP2021 comes the closest, is the most preferable for me, because it comes the closest to being a natural river and I think that is the most valuable use of the river. I would like to read three very short bits from A Sand County Almanac, they're real short. Aldo Leopold wrote these, he died in 1948 -- keep in mind, 1948. And you can see this guy saw farther down the road than most of us. Since 19- -- September 11th -- this is particularly important or apropos -- it says, "do we not already sing our love for an obligation to the land of the

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free and the home of the brave? Yes, but just what and whom do we love? Certainly not the soil, which we're sending helter-skelter down river. Certainly not the waters, which we assume have no function except to turn turbines, float barges and carry raw sewage. Certainly not the plants, certainly not the animals." And he remarks that these have the right to continued existence, at least in spots in their continued existence, in a natural state in some places. He speaks to the AB cleavage, it's what he calls the AB cleavage. What it amounts to is --

COMMANDER UBBELOHDE: Mr. Kelly, I'm sorry, I'm going to have to ask you to stop.

MR. KELLY: Okay.

COMMANDER UBBELOHDE: Thank you.

MR. MOORE: Jack Bernard? (No response.) Jack Bernard? (No response.) Jamie Mierau?

MS. MIERAU: Good evening. My name is Jamie Mierau. I am here as a representative of the organization, American Rivers. American Rivers is a national nonprofit conservation organization founded over 25 years ago for the

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purpose of protecting and restoring our nation's rivers. Watchers of C-Span may have gained some familiarity with our efforts through the viewing of our annual presentation to the United States Congress. Each year American Rivers identifies and attempts to focus the attention and action of our nation upon a dozen or so of its most critically important endangered rivers. This year the Missouri River is listed at the very top of that list.

Though a Colorado native, I am fortunate to still have family members in Nebraska. I learned about the Missouri River and its importance through them and I am glad to be back in the Basin working on an issue of vital importance to everyone in the seven states that the Big Muddy runs through, as well as everyone across the nation.

My job as an outreach specialist enables me to keep my finger on the pulse of our organization's more than 30,000 supporting members. I can thus assure you that they, as well as all of the professional staff at American Rivers, want, firstly, to thank you, the Corps of Engineers, for its careful

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appraisal of the changing circumstances and public attitudes with regard to the Missouri River. And, secondly, to make it known that they throw their full support behind the Corps' proposed flexible flow alternative, GP2021. It does not give us conservationists everything that we might wish for, but it is a reasonable compromise and strikes a fair balance between and among all of the conflicting needs and varied interests of this great country.

Other
A, 7

My colleague, Missouri River specialist, Chad Smith, has provided you with more detailed comments, so I will limit myself to emphasizing a few general points in support of the flexible flow alternative.

The flexible flow alternative provides a modest way to help fish and wildlife without disrupting traditional uses of the river. It is the only alternative proposed by the Corps that fully captures the recommendations of the United States Fish and Wildlife Service. The flexible flow alternative will afford the Corps the authority and flexibility to prevent the extinction of three species, the piping plover, the least

EnSp 3,8
Rec 10

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tern and the pallid sturgeon, while boosting populations of other species like the sauger, small-mouth bass and other game, and will support recreation and tourism without overly burdening other uses of the river. In simple terms, better flows equal better fishing, more tourism and stronger local economies.

Rec, 10
EnSp 3,8

The barge industry and certain agricultural interests have raised concerns about skyrocketing shipping rates and catastrophic flood events. Sound scientific evidence proves that these concerns are not supported by fact. The Corps of Engineers' own analysis shows that flexible flow alternative will provide flood control, increase overall hydropower benefits, support Missouri River navigation at key times, increase support in the Mississippi River navigation and protect floodplain farmers.

Nav 7, 30
FC 8, 17
HPower 12

I thank you for the opportunity to speak on behalf of American Rivers, and for our 30,000 members from the Missouri River Basin and nationwide. They realize, just as you do, that the Master Manual, a document written in the 1960s, no longer fills the needs of the 21st

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century. The time has come to begin managing the Missouri River to meet the Basin's current economic and environmental needs. Thank you.

MR. MOORE: Harold Mitchell?

(No response.)

COMMANDER UBBELOHDE: Are there any others who wish to make a comment?

MR. KELLY: Can I finish?

COMMANDER UBBELOHDE: You're entitled to submit it in writing if you wish, Mr. Kelly.

In closing, I would like to remind you that the hearing administrative record will be open through 28, February 2002 for anyone wishing to submit written facts or electronic comments. Also, if you want to be on our mailing list, or receive a copy of tonight's transcript or any other transcript, just contact one of the folks from the team and we'll be able to provide you information on how to get that.

If there are no further comments, this hearing session is closed.

(Whereupon, this hearing was concluded at the hour of 10:30 p.m.)

C E R T I F I C A T E

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

I, Denise J. Lukasiewicz, Court Reporter and General Notary Public in and for the State of Nebraska, do hereby certify that this U.S. Army Corps of Engineers hearing was by me taken and that the above set forth was reduced to print under my direction by means of computer-assisted transcription.

That the within and foregoing U.S. Army Corps of Engineers hearing was taken by me at the time and place herein specified and in accordance with the within stipulations.

That I am not counsel, attorney, or relative of any of the parties involved, or otherwise interested in the event of this suit.

IN TESTIMONY WHEREOF, I have placed my hand and notarial seal this 26th day of November, 2001.

DENISE J. LUKASIEWICZ
COURT REPORTER AND
GENERAL NOTARY PUBLIC

Comments presented to: U.S. Army Corps of Engineers
Northwestern Division
Missouri river Master Manual RDEIS
12565 West Center Road
Omaha, NE. 68144

Comments presented by: David W. Burkholder, President
Consolidated Blenders, Inc
P.O. Box 88
Cozad, NE. 69130
Nov. 8, 2001

Consolidated Blenders, Inc. is an organization made up of five alfalfa processing plants located in central and eastern Nebraska along with related storage and shipping facilities located at Blair, Nebraska, and Guntersville, Alabama. Consolidated Blenders, Inc. annually produces about 70,000 tons of processed alfalfa with a value of approximately ten million dollars. Consolidated Blenders, Inc. employs approximately 50 full-time and 50 seasonal people in rural communities of less than 10,000 people where alternative employment opportunities are limited.

The alfalfa is harvested from 16,000 acres of farmland most of which is owned by independent farmers who depend on our company for a substantial part of their income. Nebraska produces more alfalfa than it consumes. Processing the alfalfa into a denser and more nutrious product allows it to be transported greater distances to market than traditional baled alfalfa. The loss of this outlet for alfalfa products would have a substantial detrimental effect on the market for alfalfa in the Central Platte Valley of Nebraska. Very little of the alfalfa is irrigated, but it is produced in rotation with corn and soybeans which are irrigated. The loss of this market for alfalfa would force farmers to use more irrigation water or to produce an alternative dryland crop with less income and economic activity in their rural communities.

Processed alfalfa is produced by harvesting fresh alfalfa, as it is grown, and transporting it directly to the processing plant for artificial drying and then grinding and pelleting. In Nebraska, this necessitates producing the product primarily in June, July, and August. Peak usage of processed alfalfa is in the winter when other forage is scarce. This requires storing the product from production to consumption. Each year approximately one half of our production is transshipped on barges operating on the Missouri river to our storage facility located at Guntersville, Alabama, and to export customers through New Orleans. Disruption of barge traffic on the Missouri River would effectively cut our production facilities off from half our storage capacity and from our export customers.

The RDEIS on which the Corps is now accepting comments contemplates six alternatives for operating the flows on the Missouri River. With the above background, Consolidated Blenders, Inc. would like to offer the following comments on the six alternatives included in the RDEIS.

Navigation on the Missouri River is vital for the existence of Consolidated Blenders, Inc. The company, and the jobs and markets it provides, will **not** continue to exist if the production facilities are cut off from half our seasonal storage and our export customers. Alternatives GP 2021 and GP 1521 would have that result immediately. Neither the barge operators nor the shore facilities can absorb the "direct overhead" cost associated with operating for two months in the spring and two months in the fall. In the case of Consolidated Blenders, Inc., we just can not hire the people with the skills and aptitude needed to operate the facilities on a seasonal basis. The employees we have now are very busy for six months each year. We have about two months of necessary maintenance required to maintain the facility. If that were changed to a four-month season, they would be non-productive for eight months per year. We can not afford to pay them, and they do not want to work, in that type of environment. The barge operators have an equally impossible situation. Getting equipment in place in the spring and removing it in the fall is an expensive operation. They assure me that requiring them to undertake this process twice each year would not be economically feasible.

Nav 49

Alternatives GP1528 and GP2028 are harder to evaluate. Numerous years in the last two decades, the availability of water has forced the Corps to maintain only minimum flows on the river for barges to operate. It is a marginal inconvenience for Consolidated Blenders, Inc. to load barges to a seven foot draft instead of an eight foot draft. We can ship the required tons by loading additional barges. Because the cost of moving the barge is pretty much fixed, whether it is loaded to seven feet or eight feet of draft, these minimum draft years have not been good times for the barge operators. Thus, the barge operator must have more dollars per ton to transport our product if minimum flows are to be the requirement. Alternatively, they will find additional investment in equipment to be unattractive and will eventually withdraw from service on the river. If Consolidated Blenders, Inc. must pay higher transportation costs, we must either pay our farmers, employees, and stockholders less money or receive a higher final selling price. Either alternative will make us less competitive in the long run and eventually direct economic resources away from our company and our industry.

Consolidated Blenders, Inc. does not believe that we have enough understanding of the effects of alternative MCP on our operation to offer constructive comments on this idea.

Maintaining alternative CWCP is clearly the best alternative for navigation on the Missouri River. There are several additional reasons, on which we would like to comment, why CWCP is the best alternative in addition to the benefits it offers to navigation.

The Papio-Missouri NRD (among others) has developed a plan that would mitigate most of the problems the main stem dams have created for plover, terns, and sturgeon. Their plan involves intensively developing a number of the old "ox bows" in the river into wildlife sanctuaries with environments ideal for nurturing the development of the species in question. This plan involves the disruption of the use of far less land and much less water than does any of the GP alternatives. The internal costs (direct costs to the Corps or the NRD) to construct and operate these sanctuaries might be greater than the alternative. The external costs (i.e. increased electricity and transportation costs, reduced recreation opportunities, wasted investment in farms and barge loading facilities) to the citizens of the basin would be exponentially less.

Other 70, 218, A

Fortunately, or unfortunately, (depending on ones point of view) the white man altered the environment as he settled the Missouri River Basin. While we have fewer of some species of wildlife, the basin has greatly increased numbers of other species of wildlife because they benefit from the altered environment. Many of the species whose numbers have increased are predators to the endangered species in question. Several studies in the central Platte region have demonstrated that more terns and plovers can be fledged in protected environments than by trying to create "native" environments by scouring the river with high flows to create sandbars. These studies prove that, unless USFWL intends to systematically eliminate all the predators the now altered environment supports, more terns and plovers can be fledged without altering the Missouri River as operated under the CWCP alternative.

EnSp 28

In our opinion, the RDEIS "Summary of Impacts of the Alternatives" (Page 28 of the Summary Missouri River Revised Draft Environmental Impact Statement) grossly understates the impact the plan would have on hydropower. The Corps has analyzed the problems on pages 16 and 17, but chose to ignore them in the summary table. The proposed spring "rise" and summer "fall" will create several problems for all power users in the basin. The first is the seasonal factor. The upper basin has its peak requirement in the winter with a secondary peak in the summer. The lower basin states peak requirement is in the summer with a secondary peak in the winter. Both regions normally have their lowest requirement in the spring. The generation capacity of the main stem dams **will** be utilized because the marginal cost of producing power in these plants is lower than any alternative. Therefore, our existing generation plants will generate less power in April and May and they will need to recover a larger share of their fixed costs in the other months by charging more for that electricity. Since there will be less electricity available in the peak period of July and August, additional power generation will need to be built to serve that peak. The net effect of producing more power in April and May (through the main stem dams), and less in July and August, will result in everyone in the basin paying higher power costs.

HPower 12, 18

Hydropower disruption could be the tip of the iceberg. As the Summary RDEIS discussion on page 17 indicates, curtailed fossil and nuclear power production on the lower Missouri due to water temperature restrictions could substantially reduce power production. Figure 12 (page 17 of the Summary RDEIS) indicates that 200 MW of generation Capacity could be at risk. We are very disappointed in the manner that the RDEIS glosses over this issue. If you really want to implement GS2021 or GS1521 **tell** the citizens of the basin that implementation of these options will affect more than just

navigation. Their implementation means life without an air conditioner, without lit parking lots and ballfields, and without computers that receive and send information 24 hours a day. GS2021 and GS1521 mean a lower standard of living for all citizens of the Missouri River Basin. This is too important an issue to be left to a footnote in the RDEIS, the way it has been done in this document.

Thank you for the opportunity to offer these comment to the Missouri River RDEIS. I would be happy to respond to any questions you might have on the testimony herein contained and the affect these alternatives would have on Consolidated Blenders, Inc.

SIERRA CLUB
FOUNDED 1892

Nebraska Chapter

P.O. Box 4664, Omaha, NE 68104

Comments on the Missouri River Master Plan
Public Hearing - Nebraska City, NE - November 8, 2001

My name is Clyde Anderson of Omaha, Nebraska. I am Secretary and member of the Executive Committee for the Nebraska Chapter of the Sierra Club.

On September 15, 2001, our chapter adopted a new Sierra Club policy for the Missouri River that was recently drafted by representatives of the chapters lying in the Missouri River Basin. A copy of this policy is attached.

Of the six alternative master plans, we believe that the GP 2021, or Flexible Flow Alternative, is the closest to meeting our goals, and this is the plan we recommend for adoption.

Clyde Anderson

Clyde L. Anderson, Secretary
Nebraska Chapter, Sierra Club
7020 Burt St.
Omaha, NE 68132-2600
402-932-7225 (home)

SIERRA CLUB
FOUNDED 1892

Nebraska Chapter

P.O. Box 4664, Omaha, NE 68104

SIERRA CLUB POLICY FOR THE MISSOURI RIVER

Adopted by the Nebraska Chapter on September 15, 2001

Other
A, 10, 36, 187, 250, 172, 124, 258

1. Endorse the recommendations by the U.S. Fish and Wildlife Service for a spring rise and lower summer flows to assist in the recovery of the endangered species on the river.
2. Endorse a split-navigation season.
3. Call for a study to be done on the sedimentation problem behind Gavins Point Dam.
4. Since Gavins Point Dam is nearing the end of its usefulness, a study should be conducted on the possible decommissioning of it.
5. Endorse the unbalancing of the three reservoirs.
6. No inter-basin transfer of water should be allowed unless it can be proven to not damage the Missouri River basin or the other basin ecologically.
7. Bank stabilization projects should not be allowed.
8. Setbacks should be encouraged along the river.
9. Encourage further mitigation efforts.
10. Endorse the use of conservation easements on the river.
11. Dredging should not be allowed on the river or its tributaries.
12. The main navigation channel should not be preserved.
13. More study should be done on the economics of hydropower along the river.
14. The Corps should promote recreation, hunting, and fishing as much as it does navigation.
15. Endorse the use of Adaptive Management with an independent panel to oversee it.
16. Encourage further study of a fall rise possibly in conjunction with Adaptive Management.

Adaptive Management is a systematic process for continually improving management policies and practices by learning from the outcomes of operational programs.

Sierra Club Policy for the Missouri River - 11/08/2001 1

November 8, 2001

Public Comments on Proposed Flow Changes of the Missouri River

By
Iowa Secretary of Agriculture Patty Judge

Good evening. I appreciate this opportunity to provide you with input that is crucial to Iowa's agriculture community. Governor Vilsack and I have been in close communication on this subject, which is vitally important to western Iowa agriculture.

The State of Iowa will submit additional, more comprehensive comments to you at a later date.

Tonight I would like to take this opportunity to address a few of the concerns of the agricultural community.

Iowa has participated in the Master Water Control Manual Study, mainly through the Missouri River Basin Association (MRBA), since 1998. The MRBA is made up of voting representatives selected by their respective Governors. Those states participating are: Iowa, Missouri, Kansas, Nebraska, South Dakota, North Dakota and Wyoming. In November 1999, the MRBA submitted their recommendations for operations of the system to the Army Corp of Engineers. The Modified Conservation Plan developed by the MRBA has been supported by all states with Missouri being the exception. This plan does shorten the normal navigation season from eight months to 7.12 months annually. Additionally, the modified plan also serves to more quickly trigger conservation measures in times of drought. This will increase the frequency of years that require the navigation industry to work under minimum or reduced service levels. This plan does do a better job of "sharing the pain" during drought periods, though it must be understood that the State of Iowa does not benefit from this new plan.

The Iowa Department of Agriculture and Land Stewardship has an ongoing strong commitment to our farmers, while also recognizing that protection of our environment goes hand in hand with a healthy agricultural economy. We must strive to strike a balance between maintaining a healthy environment with a vibrant, robust farm economy.

After analyzing the possible effects of the six alternative operating plans for the Missouri River, The Iowa Department of Agriculture continues its support of the Modified Conservation Plan (MCP.) MCP is a compromise plan that does provide for a more equitable distribution of water resources during periods of drought. In agreeing to this compromise, we maintain reasonable navigation and marketing opportunities and avoid potentially damaging drainage problems.

If the Gavins Point (GP) options are granted, however, there will be a direct negative impact on Iowa farmers and the agricultural community. Possible field flooding during the forced 'spring rise' could cause serious economic consequences for our agricultural producers along the Missouri, particularly those in Pottawattamie, Mills and Fremont counties. Slowing or stopping the navigation industry during the deliberate low flows of the summer months, would greatly impact our ability to move grain and agricultural products, causing more money to be spent on alternative modes of transporting goods and services.

The Iowa Department of Agriculture and Land Stewardship's Soil Conservation Division is working hard to protect our water and promote healthy wildlife habitat, while at the same time maintaining the best food production system in the world. We are working hard to develop wetlands, plant buffer strips and grass waterways, among other conservation measures. This work is providing habitat for wildlife and birds in Iowa. Our Soil Conservation Division estimates that approximately 130,000 acres of southwest Iowa farm ground would be impacted by the Gavins Point (GP) 1528 Option and the Corps own research indicates that nearly 1.4 million acres would be impacted throughout the lower basin. This impact would come in the form of economic loss to already financially stressed Iowa farmers. In a climate of struggle for the survival of the family farm, the intentional flooding of a farmer's land by the United States Government is almost impossible to comprehend.

In conclusion, we oppose both the spring rise concept and the subsequent low summer flows as proposed. We support the compromise as agreed upon by the Missouri River Basin Association (MRBA) where there is an equitable distribution of water resources so that the impact on Iowa's agricultural community and the navigation industry is minimal. We do oppose all GP Options.

U.S. Fish and Wildlife Service
Public Comments
Missouri River Master Manual Hearing
Nebraska City, Nebraska, November 8, 2001

Good evening, my name is Mike Olson and I'm here this evening on behalf of the U.S. Fish and Wildlife Service to issue a brief statement on the Revised Draft Environmental Impact Statement for the Missouri River Master Water Control Manual. I'm also here to listen to the comments in person from citizens on this important issue.

The Service has primary authority for oversight of our nation's rarest animals under the Endangered Species Act. The Missouri River is home to the endangered pallid sturgeon and least tern, and the threatened piping plover. The decline of these species tells us that the river is not healthy for its native fish and wildlife, and that there needs to be a change in its management to restore the Missouri to a more naturally functioning river system. A healthy river provides wildlife habitat, supports fishing, and makes boating an attractive recreational activity.

Congress committed the Federal Government to preventing extinctions by requiring Federal agencies to use their authorities to conserve endangered and threatened species. During the last 12 years our agency has been working with the U. S. Army Corps of Engineers to modernize the management of the Missouri River to help stabilize and hopefully, begin to increase and recover populations of these vary rare animals. This

new approach was described recently in a document called the "Missouri River Biological Opinion," published in November 2000.

The biological opinion looks at the river as a system and outlines the status of these rare species, the effects of the current operation on them, and a reasonable and prudent alternative to the current operation that will not jeopardize their continued existence.

Our biological opinion is based on the best available science and includes nearly 500 scientific references. In addition, we've sought out 6 respected scientists – "big river specialists" – who confirmed the need to address flow management, as well as habitat restoration. Further, the Missouri River Natural Resources Committee, a group comprised of the state experts on Missouri River management, endorses the science in the opinion.

If you have read the RDEIS or summary document, you understand that the "GP alternatives" encompass the range of flows identified by the Service as necessary below Gavin's Point Dam to keep the listed species from being jeopardized. Our agency, and the Corps, also recognized the importance of some flexibility in management that would enable Missouri River managers to capitalize on existing water conditions to meet endangered species objectives without having to go through another 12-year process.

Other management changes identified in the biological opinion include a "spring rise" out of Fort Peck Dam, an improved hatchery operation to assist declining pallid sturgeon populations, restoration of approximately 20% of the lost aquatic habitat in the lowest 1/3 of the river, intrasystem unbalancing of the three largest reservoirs, and acceptance of an adaptive management framework that would include improved overall monitoring of the river.

In closing, the Service supports the identified goal of the revised master manual - to manage the river to serve the contemporary needs of the Missouri River Basin and Nation. These needs include taking steps to ensure that threatened and endangered species are protected while maintaining many other socioeconomic benefits being provided by the operation of the Missouri River dams. The Service stands behind the science used in the opinion, and is confident that the operational changes identified in our opinion, and included in the RDEIS as GP alternatives will ensure that these rare species continue to be a part of the Missouri River's living wildlife legacy.

The Missouri River is a tremendous river, with a significant and revered heritage. Our influence has altered the river greatly. Changes are needed to modernize and restore health to the river – for the benefit of rare species and for people, too.

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES
Roger K. Patterson
Director

Mike Johanns
Governor

IN REPLY REFER TO:

U.S. Corps of Engineers

November 8, 2001

Testimony Regarding the Revised Draft Environmental Impact Statement, Missouri River Mater Water Control Manual Review and Update

Testimony by
Roger K. Patterson, Director
Nebraska Department of Natural Resources

My name is Roger K. Patterson and I am the Director of the Nebraska Department of Natural Resources. I have also been appointed by Governor Johanns to represent Nebraska on the Missouri River Basin Association. Let me begin by thanking you for holding this hearing in Nebraska City.

We appreciate the Corps of Engineers cooperation and help in understanding the impacts to Nebraska's interests during this long and difficult process. In particular I would like to acknowledge the efforts of Rose Hargrave, Roy McAllister and Larry Cieslik. Please consider my comments today as preliminary. We are continuing to review the RDEIS and plan to provide additional written comments prior to the close of the comment period.

Nebraska receives a large portion of the benefits from the operation of the Missouri River Mainstem Dams. All eight authorized project purposes benefit the citizens of our State. The Flood Control Act of 1944, which authorized most of the Dams on the mainstem Missouri River contains the following statement in its opening section:

> "…it is hereby declared to be the policy of the Congress to recognize the interests and rights of the States in determining the development of the watersheds within their borders and like-wise their interests and rights in water utilization and control…"

We appreciate your recognition of the State's role as you have worked to develop alternative operating scenarios. We would also note the authorizing legislation is clear that the Missouri Basin Projects are to be operated to benefit the citizens of the Missouri River states. We encourage you to resist any suggestion that the Missouri River be operated specifically to meet downstream needs on the Mississippi River.

In 1994 the Missouri River Basin Association was approached by the Corps and asked to help develop an operation plan that would be acceptable to the States. After seven years of hard work, three basinwide meetings, and countless phone calls and meetings, seven of the eight basin states agreed to such a plan. Nebraska still supports that recommendation.

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Nebraska invested a tremendous amount of time and energy working as part of the Missouri River Basin Association to produce the November 1999 recommendation. We are pleased to see our recommendation reflected in all five of the RDEIS action alternatives. MRBA's recommendation addressed drought management, fish & wildlife needs, as well as tribal concerns. Many longstanding divisions between the states were overcome in addressing these issues.

The one issue MRBA chose not to address in a specific way was Gavins releases. We recognized the controversial nature of this issue and recommended it be further investigated before any changes be made. MRBA specifically recommended a "Recovery Committee" of Federal, State, tribal and stakeholder interests be established to assist in this effort. You have clearly discovered the controversy and lack of an obvious solution associated with Gavins changes and are suggesting differing approaches as described in four of the six alternatives. Before you pick a solution and proceed to make flow changes, we believe it makes sense to get a sound monitoring system in place as well as the other elements of a good adaptive management program. That's not to say we don't understand your need to comply with the Endangered Species Act and we're not suggesting you ignore this responsibility. We're simply suggesting that the Corps and FWS work with the States, tribes and stakeholders throughout the Basin in a way that allows us to proceed in a methodical way that allows you to meet your ESA responsibility without doing unintended harm to the project's authorized purposes or other uses along the river. Monitoring and adaptive management will be critical components of any successful effort.

Should you decide to proceed with changes at Gavins, we would ask that you choose the alternative that would have the smallest impact on other purposes. Of the alternatives displayed in the RDEIS, alternative GP1528 seems to come the closest to meeting this requirement although at this point we are not ready to endorse any alternative as we are continuing our evaluation.

Regardless of the alternative chosen, the Final EIS needs to fully analyze the impacts of each alternative and the selection of the preferred alternative and record of decision should be formulated to allow appropriate response through adaptive management without the need for a significant amount of new NEPA work.

Hydro and Thermal Power Production

Changes in the potential production of both Hydroelectric and Thermal power must be fully understood. Nebraska has over 50 municipalities that receive power from WAPA and the Pick-Sloan projects as well as two of the largest 5 customers in Firm Energy Sales & Revenue. Nebraska also has 4 thermal power plants with 2500 mW of capacity. The RDEIS shows that under some of the Gavins plans significant increases in power rates and increased risks to thermal power may occur. The RDEIS; however, appears to significantly underestimate these impacts. Given the national energy picture, its important these impactst are better understood before a decision is made.

Missouri River RDEIS, August 2001
November 8, 2001 Public Meeting
U.S. Army Corps of Engineers
Northwestern Division
Lied Conference Center
2700 Sylvan Road
Nebraska City, NE 68410

My name is Gene Zuerlein and I am here on behalf of the Nebraska Game and Parks Commission.

2200 N. 33 ST
LINCOLN, NE 68503

The Nebraska Game and Parks Commission (NGPC) has a **Public Trust** responsibility to manage, protect, and care for fish and wildlife resources which belong to all citizens. This stewardship role is taken seriously. Our biologists have been working on the Missouri River for many years conducting studies in order to obtain information to make good management decisions for the citizens of Nebraska. Our studies about fishery resources and the habitat needed to sustain them have helped gain insight about the form and functions of this large river. In addition to fish and wildlife management activities, the NGPC has three state parks on the mighty Missouri (Niobrara, Ponca, and Indian Cave) and a number of Wildlife Management Areas and State Recreation Areas, all of which provide thousands of hours of recreational opportunities to citizens of this state.

Rivers do two fundamental things: 1) they transport water to the ocean, and 2) they transport sediment to the ocean. Man made changes to these processes and physical changes to the channel have served mankind greatly but, most of the changes were made before the different pieces of the ecosystem were understood and how they fit together for sustainability. In serving on the Missouri River Scientific Review panel for the U.S. Fish and Wildlife Service's Biological Opinion, Dr. David Galat stated that "Overwhelming empirical and theoretical evidence supports the contention that flow is the master variable driving the ecology of rivers (16 studies cited)." In essence, he is saying that the Missouri River needs a **heart beat** to be biologically healthy.

Appendix III of the Biological Opinion dated November 30, 2000 summarizes the past physical, chemical, biological, and social impacts and attributes them to channelization activities,

Fish and Wildlife

We are well aware there are three threatened and endangered species on the Missouri River and that habitat improvements must be made so that those species and other species not do continue to decline in numbers. We only ask that the Corps of Engineers balance any operational changes such that the other authorized uses do not experience unnecessary harm. We also believe that the Recovery Committee and the use of Adaptive Management are critical tools for species recovery.

Recreation

Recreation on the channel of the Missouri River has been increasing and any impacts to the portion of the river bordering Nebraska should be fully understood. Low summer flows would have an impact on accessing the Missouri River to and from existing marinas. This is due to shallow depths at the junction of the river and marina entry. Under current conditions, flows below 28,000 cfs during the peak summer period of recreational use (July, August) would drastically impact this multi-million dollar industry.

Water Supply

We would like to thank the Corps of Engineers for their willingness to be flexible in the past during the winter operation out of Gavins. Flexibility in operating the system to avoid ice jams and protecting the City of Omaha's water supply is greatly appreciated. We would like to continue this type of working relationship into the future under the new Master Manual.

Flood Protection

Flood control is one of the cornerstone purposes of the Missouri River projects and must be fully maintained. There is an increase in potential problems the further downstream you are from the release point during spring rises. The problems may occur not only because of flooding caused by high river flows but also due to less efficient interior drainage or backwater in the tributaries. With a 4 to 5 day travel time from Gavins Point to Nebraska City where our greatest concerns with flooding are, we must be assured that our valuable farm land is not unduly impacted.

Navigation

It is important that the navigation industry remain a viable transportation alternative for grain, fertilizer and other goods between St. Louis and Sioux City. We believe it is possible to meet the needs of the listed species while continuing to provide some level of navigation support. The alternatives that essentially eliminate navigation during the summer months may unnecessarily cause this issue to be thrown into the lap of Congress. We believe that is avoidable if the final preferred alternative is crafted wisely.

Conclusion

Thank you for allowing us the opportunity to testify on the RDEIS. We look forward to continuing to work with the Corps in the future.

3

construction and operation of dams, or a combination of both activities. More ever, 478 scientific references document these impacts and another 36 scientific references are cited by three independent scientists evaluating the role of river hydrology to the conservation of Missouri River endangered species. This means that a total of 514 scientific references have been utilized to document the past impacts to the Missouri River ecosystem. We now know that the biological health of the Missouri River is at stake and that changes are needed to sustain this great river for present and future generations. In general, about one third of the entire river has been replaced with reservoirs; one third has been shortened, channelized, the banks stabilized, and levees placed along the channelized reach; the remaining one third is somewhat natural, but suffers from bed degradation and water temperature impacts to flora and fauna. Essentially, the kitchen, dining room, living room, den, family room, bed room, and garage have been eliminated in terms of habitat to sustain the life cycle of Missouri River fish species. What we have left is the hallway to provide needed habitats. In the channelized reach alone, over 500,000 acres of aquatic and terrestrial habitat will have been eliminated from the natural channel and meander belt by the year 2003.

Because jeopardy to the least tern, piping plover, and pallid sturgeon reflects degradation to the entire ecosystem, the reasonable and prudent alternatives identified by the U.S. Fish and Wildlife Biological Opinion to the Corps of Engineers (COE) contains key aspects which are essential:

- Adaptive management approach to management
- Restoration of shallow water habitat
- Unbalancing of the three upper large reservoirs except when there are high inflows or drought
- Monitoring and assessment of listed species
- Participation and assistance with pallid sturgeon propagation
- Flow enhancement from Fort Peck and Gavins Point Dam

Analysis of the different alternatives proposed in the August 2001 Summary, Missouri River, **Revised Draft Environmental Impact Statement (Master Water Control Manual)**, indicate that Run of River would be extremely good for tern and plover habitat, a spawning cue for pallid sturgeon, flood plain connectivity, and physical habitat for native fish. ~~However,~~ **Alternative GP2021 ~~is recommended~~ because it gives the Corps of Engineers maximum flexibility** to adjust ~~spring flows up to 20 kcs out of Gavins Point Dam if monitoring and data analysis indicate it is necessary for a pallid sturgeon spawning cue~~. We believe this alternative is also the closest to the Biological Opinion. Alternative GP 2021 would also allow the COE to expose sandbar habitat for tern and plover nesting and create shallow water habitat for young pallid sturgeon by lowering the stage (ie summer flows) every year as conditions allow. The side boards of the GP 2021 alternative would allow ~~the~~ COE to try other alternatives such as GP1521, GP1528, and GP2028 using the adaptive management approach.

The spring rise spawning cue is needed for more species than just pallid sturgeon. Other big river species such as the paddlefish, sauger, and catfish also need it as do smaller minnow species which constitute the prey base for other species such as channel and flathead catfish. This heartbeat is mother nature's way to reinvigorate the physical, chemical, and biological system for sustainability. The healthier we can make the system, the higher the probability of not having additional species listed in the future. The healthier the Missouri River, the more it will continue to serve citizens and the communities dependent upon it.

In conclusion, I want to thank the Corps of Engineers for diligently striving to meet the requirements of the Biological Opinion. The challenge we face is learning from the past and recognizing that although change may be difficult, life is a state of constant change.

The Nebraska Game and Parks Commission is not listed in chapter 12 of the main report (Volume 1) as an organization under State Government, which received copies of this RDEIS. We would appreciate receiving a copy of the FEIS in May 2002.

MISSOURI RIVER COMMENTS
NOVEMBER 8, 2001

My name is Nancy Newlon and I live in southwest Iowa. My family owns farm ground in the Missouri River Basin with some of that ground directly affected by the Missouri River. I support the Current Water Control Plan and would like to make the following comments:

1. I oppose the Spring Rise, Reduced Summer Flow. The Spring Rise could mean an increase of up to 4 feet of additional water in the Missouri River. Thousands of acres in Fremont county depend on interior drainage. The drainage system does not work when the river is too high. On the Iowa side of the river just under Highway 2 there are 4 flumes that drain thousands of acres of rich Iowa bottom farm ground. When the river level is above 13 feet at Nebraska City those flumes are closed. At normal Spring releases from Gavins Point Dam, the drainage gates at Nebraska City are usually very close to being if not closed each Spring. Add to that Spring rains anywhere between Gavins Points Dam and Nebraska City that must flow past the flood gates at Nebraska City and you have stopped the interior drainage of thousands of acres of farm ground at one of the most critical times for a farmer.

Our farm sells grain to DeBruce Elevator in Nebraska City who depends to some extent on barges to ship grain. A reduced summer flow could possibly mean an end to navigation on the Missouri River and loss of transportation for crops and farm products.

2. The Fish and Wildlife have been very successful at developing land on the unprotected side of the levees. One of these is just down the river from here, Hamburg Bend. I believe the Corps need to offer these land owners a fair price for such land and let the Fish and Wildlife Service develop these areas into rich wildlife habitat. One reason this land has not been sold to the Corps over the years is the unfair price they offer the land owner. I would remind the Corps they are the ones that chose to narrow the Missouri River with wing dike and dams, structures in the river and most importantly they are the ones that years ago chose to abandon dredging the river. Because of these management decisions, the over banks of the river have become silted in over the high water years, and hence the holding capacity of the river has diminished drastically. Consequently, the holding areas for the Missouri River has become the farm ground between the River and the levees. This farm ground has decreased in value over the years, not because anything the land owners have done, but because of management decisions by the Corps. The Corps should offer the land owner a fair price for the ground, turn the management of the land over to the Fish and Wildlife and there you have a perfect habit for wildlife. This is not a Biological opinion and not a theory. It is a proven fact the Fish and Wildlife Service have been very successfully creating wildlife habitat in theses areas.

3. I oppose the proposal of the use of adaptive management by establishing an Agency Coordination Team. This team as I understand, would be composed of Federal biologist, probably U.S. Fish and Wildlife Service and Corps of Engineers with input from the EPA and other groups with ENVIRONMENTAL interest. The input from the public would be reduced to the Annual Operating Plan process. I believe that my interest in the management of the Missouri River is just as important as the Fish and Wildlife Service and the EPA and ALL interest groups should be represented on the Agency Coordination Team, if such a team is established.

4. I would like to thank the Corps of Engineers for finally recognizing the Missouri River does affect Interior Drainage and Groundwater on farm ground and for finally including this area in your management of the Missouri River.

5. If you agree with the management changes proposed by the Fish and Wildlife Service because of their Biological opinion, I would remind you that it is just an opinion. An opinion based on theory and faulty science. It was in this room about a year ago that someone representing the Fish and Wildlife Service said they could not prove the changes in the Missouri River they propose would do what they hope it would do. It was a theory that had to be tested. I believe it is unfair for my family farm to be subjected to possible economic devastation so a theory can be tested.

I urge you to continue using the Current Water Control Plan as the guidance plan for the Missouri River management.

Unfortunately, in this state, that often makes me feel like a second-class citizen.

Comments of Chad Smith of Lincoln, Nebraska
On the Missouri River Master Manual Revised Draft Environmental Impact Statement
Nebraska City, Nebraska
November 8th, 2001

My name is Chad Smith. I live in Lincoln, Nebraska. I work for the river conservation organization American Rivers. However, my comments tonight are not on behalf of American Rivers. Rather, they are on behalf of me personally as a resident of the state of Nebraska.

I have lived in Nebraska 29 of my 31 years. I was born and raised in Lexington, got my undergraduate degree in Fisheries and Wildlife from the University of Nebraska-Lincoln, and am happy that Nebraska is home to me and my family. I am not a farmer. I do not raise corn, soybeans, or livestock. ~~I realize that in this state, that makes me a second-class citizen.~~ However, despite that fact, I love this state and intend to continue making it my home.

I am who I am and do what I do because my Dad and Grandfathers took me hunting and fishing. Many of my best memories are of being in a duck blind on the Platte River in central Nebraska on cold December mornings. From these experiences, I learned about rivers, conservation, and the link between quality of life and a healthy environment. I still spend a vast majority of my time in the fall and winter on the Platte.

However, I would like to be able to have these experiences on the Missouri as well. And I have had them. But I had to travel to North Dakota to the Garrison Reach, and to the 59-mile recreational river stretch below Gavins Point Dam to do it. Why? Because that's about all of the real Missouri River that's left.

It is clear that over the past 50 or more years, the interests and concerns of people like me have received little to no attention in how the Missouri River is managed. Water for barges, land for corn, and rock for levees, but no river for me. Lots of people talk about the Missouri being "everybody's river", but in current practice, that is a myth.

Frankly, I am [redacted] tired of being ignored. I want to experience the Missouri River, hunt ducks along it, fish it, and spend time on it. When I have children some day, I want to pass on the lessons of my Dad and my Grandfathers to them, and I want the Missouri River to be a part of that. As much as I enjoy the Garrison Reach and the short stretch of river below Gavins Point, I don't want to have to travel to those places to enjoy the Missouri. The river is a ditch below Sioux City. It does not compel me to travel to local communities to spend money on hunting and fishing trips. I take my money to South Dakota, North Dakota, and Montana, as do hundreds of other people, because the river in this area is largely lifeless and dangerous.

Farmers are important. Hydropower is important. Flood control is important. But my interests are important as well, and I demand that they receive due attention. Conservation advocates like myself have been derided as being nostalgic for the days of Lewis and Clark. But, the only nostalgia I really have been hearing is for 1960. For those that try to wax eloquent about the status quo, what they are really saying is that life was perfect in 1960 when the Master Manual was written, that the Corps had all the information it needed at that time, and that the Corps got it exactly right.

I am here to tell you that you didn't get it right. And, that a lot has changed since 1960. I am not asking for the river of 1804. But the river of 1960 is not right either. This is the year 2001. Recreation is important. Our natural heritage is important. Truly managing the Missouri River for everyone is important. Corn may be king out here, but I don't accept that monarchy. ~~People like me count, too.~~ Nonfarming people count, too.

It's time to update the Master Manual. The Missouri's heartbeat is gone. Bring it back. Ducks and geese largely stay away from this river corridor. Bring them back. Catfish used to be the real kings of the Missouri River. Bring them back.

As you finalize a plan for the new Master Manual, please take me into consideration. Be aware that there are a lot of people who feel slighted by how the river is managed now, and are made to feel as though we don't count. Prove us wrong.

Thank you.

AUDUBON SOCIETY OF OMAHA

A chapter of the National Audubon Society
serving Eastern Nebraska and Western Iowa
Phone: 445-4138
11809 Old Maple Road, Omaha, Nebraska 68164-2639

TESTIMONY – MISSOURI RIVER HEARING – NOVEMBER 8, 2001

Brigadier General Strock and Corps of Engineers committee members …

I am Ione Werthman, 11649 Burt St., Omaha, Nebraska. I speak for the 2000 members of Audubon Society of Omaha, but also, I speak for myself, a fourth generation Nebraskan who grew up along the Missouri River in the Gavins point dam area. I watched and even photographed the Corps building the Gavins Point Dam. During my lifetime, I've hiked, fished, canoed, went birding, and even did a lot of midnight boating on the Missouri River.

I come here tonight to urge you to change the operation of the six dams on the mainstem of the Missouri to more satisfy the needs of our 21st century citizenry—that of recreation in the form of more boating, canoeing, fishing, hunting, camping, hiking, etc. and – the creation of wetlands and spawning areas for strong and healthy fish and wildlife populations. The Missouri River is everyone's river and needs to be managed as such! The Status Quo is not sufficient. As Senator Kerrey said many times – We need to come "Back to the River."

As an Audubon member and an advocate of a strong Endangered Species Act, we applaud the final biological opinion of the U. S. Fish & Wildlife Service that concludes that if changes are not made to include higher flows out of Gavins Point Dam in the spring and lower flows in the summer, that the Corps will jeopardize the continued existence of, not only the threatened and endangered species, but also species that could become endangered in the future because of conflicts in the operation of the dams.

Of the six alternatives, we believe that only GP 2021, meets necessary environmental requirements and should be the preferred alternative for the Corps. We feel this "Flexible Flow Alternative" will give the Corps a maximum amount of flexibility in responding to water conditions and the biological needs of the fish and wildlife. We are not advocating that the Corps return the river to the river Lewis and Clark encountered in 1804, but we do believe that the final plan should be a compromise between the needs of ALL the states in the Missouri River basin. We believe that GP 2021 has the potential to do just that!

Thank you.

Ione Werthman

Ione Werthman

Audubon is for people. And a better world for people to live in.

804 Central Avenue
Nebraska City, NE 68410
November 7, 2001

Dear Corps of Engineers:

As an owner of land that runs along-side the Missour River, and is subject to flooding when the river rises above a river stage of about 17' in Nebraska City, I am very concerned about the proposed changes to the Master Manual.

I am concerned that too much attention to the piping plover, the least tern, and the pallid sturgeon, will distract the Corps from their consideration of potential flooding situations.

I am also concerned that attempts to somewhat mimic the natural spring rises of the river, will lead directly to overflows on our land.

I am concerned that overflows will flood our crops and prevent the land from being productive and cause degradation to the banks and cuts and erosion to our fields.

I urge a conservative approach to revising the Master Manual where flood control will remain of utmost concern. I would urge less drastic measures of biological management than trying to fluctuate river flows solely with biological effects in mind.

Let's try to remember there other interests involved in the management of reservoir releases, such as farming interests, navigation, and hydropower.

Thank you,

John V. James

November 8, 2001

Oral Testimony:
Nebraska City, Nebraska Public Hearing
Revised Draft Environmental Impact Statement
Missouri River Master Water Control Manual
United States Army Corps of Engineers
Northwest Division

Good evening. My name is Randy Asbury and I'm Executive Director of the Coalition to Protect the Missouri River. This coalition represents a diverse group of twenty-eight agricultural, navigational, utility, industrial and business-related entities all of which are, or represent, Missouri River stakeholders. We support responsible management of Missouri River resources and the maintenance of congressionally authorized purposes of the river including flood control and navigation. We also support habitat restoration for endangered or threatened species to the extent that it doesn't jeopardize humans or their sources of livelihood.

Floodplain farmers till some of the most productive land in the world. They also face natural risks of flooding and inland drainage problems. Too much moisture is as detrimental to crop production as too little moisture. For this reason, we are greatly concerned with the spring rise alternatives. Man-made river flows that will increase the risk of flooding or inland drainage problems along the Missouri or its tributaries are unacceptable. In today's difficult agricultural economy, farmers can't withstand man-made events that compound the natural risk inherently a part of farming. Overwhelming species benefits would have to occur for this risk to even merit review. Corps' data indicates just the opposite will transpire.

The latitude given the Corps by the adaptive management feature creates the realization that Lower Basin states must prepare for the eventuality of the highest spring rise… 20,000 cubic feet per second released from Gavins Point. This increased flow is recommended to scour vegetation from sandbars to increase nesting habitat for terns and

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plovers and as a spawning cue for the pallid sturgeon. Corps' analysis shows a net habitat gain of 164 acres will occur by increasing river flows to 20,000 cubic feet per second over CWCP releases and reducing summer flows to 21,000. The Missouri River watershed drains one-sixth of the United States over an eight state area and the river itself is 2,341 miles long yet the net result to sandbar acreage is miniscule. This doesn't even take into account the loss of nesting habitat resulting from the proposed higher reservoir levels recommended in the alternatives. 145

The Fish and Wildlife Service's Biological Opinion also demands a spring rise as a spawning cue for the pallid sturgeon. On page 22 of the RDEIS Executive Summary, it states, "Corps and USFWS biologists agree that there are no data to support definition of a spawning cue that would successfully result in spawning on the Lower River." Corps' records demonstrate there's a natural spring rise on the Missouri River beginning at the mouth of the Platte River (Missouri river mile 595) and moving downstream. There's no definitive indication that pallid are naturally spawning at any greater levels where this natural spring rise occurs even though shallow water habitat is closest to ideal in this portion of the river. 118

Corps' data shows a Gavins Point release of 20 kcfs will raise river levels in ~~St. Joseph~~ Nebraska City by ~~14~~ 4.3 feet on average once every three years. It takes 10-11 days for any releases from Gavins Point to travel to St. Louis. The Corps admittedly doesn't have the technical capability to forecast a rain event or rain runoff. In spite of this, we're expected to trust that once an additional ~~14~~ 4.3-foot of water flows toward ~~St. Joe~~ Nebraska City no major rain event will occur that will combine with the artificial rise to create the flood conditions or inland drainage problems that we envision. **Any** flood event is a significant event to those who experience it. And, for what reason are we asked to accept this risk…the promise of additional sandbar acreages so small that they could be created with dozers and draglines or that the pallid **might** spawn. The inadequate claims for species improvements don't justify the far-reaching risk of these proposals. It's apparent that a cost-benefit analysis of these proposals shows the threat of financial catastrophe to agricultural interests far outweighs any species' benefits. 168

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Accordingly, no logical justification exists for the increased exposure for flooding and inland drainage problems that may occur on 1.4 million acres of prime farmland. Federal agencies also can't rationalize that potentially affecting approximately 30,400 buildings worth approximately $17.6 billion to create less than 164 acres of bird habitat and a fish-spawning cue that may or may not help the pallid is reasonable and prudent. Arbitrary and capricious is a more apt description of this process.

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Energy > Insert Here Page 4

Consequently, of the six alternatives under consideration, we must support the current water control plan as the option of choice. Agriculture, navigation and energy suppliers and consumers should not have to labor under the burden or accept the risk of any adverse consequences resulting from proposals based on speculation and producing negligible or indefinite results. Our coalition urges the Corps to continue with the CWCP.

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Page 4

We in ~~Missouri are~~ are also extremely concerned about the negative effects that the low summer flows in the GP alternatives ~~would~~ may have on power plants along the Missouri River. These plants ~~would~~ may be faced with potential noncompliance with thermal discharge requirements to the Missouri River if any of the GP alternatives ~~were~~ are adopted. This could require reductions in power production at a time when it is most needed – the summer peak demand period.

72

In addition, the lowering of the river in July and August could force the construction of new cooling towers that would cost utilities hundreds of millions of dollars. It is reasonable to assume that these costs would have to be recovered in the form of increased electricity rates for consumers.

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However, the negative impacts to electricity consumers resulting from the GP alternatives would not be limited to downstream states. There would also be increased electricity costs to consumers of Western Area Power Administration (WAPA) power in upstream states as well.

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Because the GP plans call for reduced releases of water in July and August from various hydropower dams, there would be a decrease in hydropower production in upstream states for consumers of WAPA power. WAPA officials estimate an approximate $30 million decrease in revenues due to decreased hydropower production. This is also a cost that would ultimately be borne by consumers. Consumers of WAPA power in the states of Nebraska, Iowa, Minnesota, both North and South Dakota and Montana would be faced with increased electricity rates under the GP plans. ~~[illegible]~~.

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TOTAL P.02

Nebraska Public Power District
Nebraska's Energy Leader

November 8, 2001

Rosemary Hargrave
U. S. Army Corps of Engineers
Project Manager
Missouri River Master Manual Update

RE: Nebraska Public Power District's Initial Comments Relating to the RDEIS. Presented at Public Meeting – Nebraska City, NE, Thursday, November 8, 2001.

Attached, please find Nebraska Public Power District's (NPPD) comments relating to the Revised Draft Environmental Impact Statement (RDEIS) on the Missouri River, Master Water Control Manual Review and Update. The comments express a general overview of the concerns that NPPD has with the RDEIS. NPPD plans on making comments in greater detail, prior to the close of the public comment period on February 28, 2002.

NPPD appreciates the efforts the Corps has shown in attempting to address concerns however, we believe there continues to be areas which have not been adequately evaluated.

Please feel free to contact us for any additional information or assistance.

Sincerely,

Joe Citta
Environmental Policy Manager

General Office
1414 15th Street / P.O. Box 499 / Columbus, NE 68602-0499
Telephone: *(402) 564-8561 /* ***Fax:*** *(402) 563-5551*
www.nppd.com

Nebraska Public Power District's
Preliminary Comments Missouri River Master Manual RDEIS
Public Meeting – Nebraska City
November 8, 2001

1. Impacts to Power Generation/Supply Below Gavins Point Dam – Cooper Nuclear Station.

   ✧ It appears the Corps analysis does not identify or adequately address the impacts to the thermal power generation in the region. Both potential generation loss and financial impacts are not adequately represented or evaluated.

   - Impacts indicated for the Nebraska City River Reach (3 MW to 50 MW) really do not appear to recognize the amount of generation capacity present or potential generation losses i.e. Cooper Nuclear Station – 758 MW of generation loss.

   - Water Quality Impacts (thermal limits) do not appear to be evaluated although language in text alludes to that factor.

   - NPPD calculated the following thermal impacts for Cooper Nuclear Station.

     o Potential 50 MW loss per 1 degree change in ambient river temperature over 85 degrees F. This results in a potential financial loss of approximately $4 million per degree change per year (including fuel savings, based on a 10 week summer period)

     o Potential 758 MW loss if ambient river temperature is 90 degrees F or greater. This results in a potential financial loss of approximately $50 million per year (including fuel savings, based on a 10 week summer period).

   - The RDEIS indicates that only 387 MW capacity will be impacted in the region. This does not adequately represent the potential capacity losses for the region.

   - Concerns about increase sedimentation at CNS intake during low flows in the summer time, and adverse impacts upon plant operation.

- ✧ Corps Analysis of Power Impacts is somewhat incorrect from a power planning prospective.
  - A power supplier should not plan for new capacity based on average – worst case scenarios have to be accounted for due to obligation to serve customers.

2. Hydropower
   - ✧ We believe the Corps could better address Regional power replacement costs during the summer peak period by accounting for the following costs that do not appear to be included:
     - Transmission path costs or losses for replacement capacity & energy.
     - Ancillary service costs (as provided by hydro & replacements).
     - Hydro is considered a renewable resource, so there is value associated with the potential of lost renewable credits if capacity & energy changes.
     - Only the July peak period is quantified, the flows affect a 10-week period in the summer months, so all 10 weeks should be considered.
     - Only average historical flow conditions compared, worst case & best case (drought & plentiful rainfall) should be provided to properly determine potential effects.
3. ✧ How are decisions between alternative environmental effects determined for different species and habitats?
   - What are significant levels of difference between factors?
   - How will factors be combined?
   - Will they be weighed? How?
4. ✧ Summer Low Flow
   - What evidence does the Corps have that the low flow will achieve the T & E benefit?
   - Will you identify the specific species habitat goal to be achieved?
5. ✧ Spring Rise – for Pallid Sturgeon
   - Alternatives indicate no distinct benefit from spring rise to Pallid Sturgeon.
   - Where is the evidence the Pallid Sturgeon will benefit from any spring rise?
   - The Corps must predict achievable benefit and if it is not achieved by adaptive management go back to today's operation.
6. ✧ Adaptive Management
   - Requires upfront defined species habitat goals to be achieved.
7. ✧ Public Infrastructure has developed around congress mandates and Corp MM operation.
   - If the Corp – because of congress (ESA) is to cause changes to public – the mitigation costs should be funded by the Corp (Congress).
8. ✧ The RDEIS does not describe or evaluate the flows that may be allowed above or below the target release amounts.

IOWA FARM BUREAU FEDERATION
5400 University Avenue, West Des Moines, Iowa 50266-5997 / (515) 225-5400

Testimony of the Iowa Farm Bureau
On the Revised Draft Environmental Impact Statement
On Management Options for the Missouri River
Presented by Doug Beckman, District 9 Director
Nebraska City, Nebraska
November 8, 2001

Good evening. My name is Doug Beckman and I operate a corn and soybean operation near Glenwood. I also serve as a district director for the board of directors for the Iowa Farm Bureau Federation. I, along with many farmers along the Missouri River, have participated in meetings and educational sessions over the last several years to discuss options for managing the Missouri River.

The Missouri River is important to Iowans and particularly to farmers for many reasons. First, Farmers are concerned about inland drainage and the impact it has on cropland along the river and behind the levees. Farm Bureau has analyzed the potential impact of increased flows of the Missouri River on the economies of these counties and the numbers are astounding. Over 130,000 acres may see production losses if the flow levels are increased. This could cost the farmers in the region over $13 million. This translates into a potential economic hit to the gross regional product of five Iowa counties totaling $21 million in the first year alone.

Farmers are also concerned about the potential impact on navigation of the Mississippi River. The Missouri River provides more than half of the flow of the Mississippi River. The Mississippi is an important route to access international markets for our commodities. Drive down any road in Iowa and imagine the impact if $78 per acre is eliminated because of our inability to be a reliable supplier in the world market.

The Voice of Agriculture

Finally, Iowans are concerned about the proposed changes to flows in the Missouri River because of the impact it may have on power generation. According to the Iowa Department of Natural Resources, nearly 40 percent of Iowa's generating capacity comes from the Missouri River. Low flows during times of high electric usage will threaten power companies' ability to deliver a reliable supply of electricity and increase their costs of doing so. In the end, the consumer will pay the price.

I have several concerns with the proposed management alternatives and the options under consideration by the Army Corps of Engineers with respect to the Missouri River.

Before I outline those concerns, I want to stress a couple of points. First, I want to note that Congress has clearly stated its interest in management of the Missouri River over the past several years. It is on record in support of a balanced approach that does not make winners and losers in the Missouri River basin. Second, Farm Bureau is committed to finding a balanced management approach that addresses the multiple uses of the Missouri River and finds workable solutions to the endangered species issues raised by the Fish and Wildlife Service. Unfortunately, only one option proposed by the Corps of Engineers accomplishes this goal – the current water control plan.

I offer these concerns with the options outlined by the Corps:

- All but one of the proposed options (the current water control plan) include some form of spring rise and summer low flows. In addition, the Gavins Point release options leave the door open for even higher spring rises and lower summer flows if it is determined endangered species will benefit.
- Adaptive management is included as a component of all options but the current water control plan. The role of the states and the public in adaptive management is not clearly defined. As

with the Gavins Point release options, this opens the door to implementing flow changes to the detriment of the majority of the region.

- Most of the options start us down the dangerous path of increasing diversions and depletions from the Missouri River. This may benefit upper Missouri basin states at the expense of the lower basin states.
- The drought conservation measures allow the Corps to store more water during times of drought but fail to look at the potential impact of a drought on the lower basin states. Mississippi River navigation could be severely curtailed if low flows for endangered species are combined with drought conservation measures.

As I stated earlier, the most balanced approach for managing the Missouri River is the current water control plan. We support the original congressional intent – to balance the multiple and competing interests along the Missouri River. There is a better way – one that doesn't threaten the people and communities along the river, our ability to provide power during the peak summer months, our export markets and a million acres of farmland. We should focus on voluntary habitat conservation and enhancement activities before we endanger the economy of an entire region for two birds and one fish.

Thank for the opportunity to present my thoughts tonight.

BRINGING RIVERS TO LIFE

American Rivers
FOUNDED 1979

Official Testimony of Jamie Mierau, Outreach Specialist & Conservation Associate
American Rivers
Army Corps of Engineers Missouri River Public Hearing
Nebraska City, Nebraska
November 8th, 2001

Good evening. My name is Jamie Mierau. I am here as a representative of the organization American Rivers. American Rivers is a national non-profit river conservation organization, founded over 25 years ago, for the purpose of protecting and restoring our nation's rivers. Watchers of C-SPAN may have gained some familiarity with our efforts through the viewing of our annual presentation to the United States Congress. Each year, American Rivers identifies and attempts to focus the attention – and action – of our nation upon a dozen or so of its most critically important endangered rivers. This year, the Missouri River is at the very top of that list.

Though a Colorado native, I am fortunate to still have family members in Nebraska. I learned about the Missouri River and its importance through them, and am glad to be back in the basin working on an issue of vital importance to everyone in the seven states that the Big Muddy runs through, as well as everyone across the nation.

My job as an Outreach Specialist enables me to "keep my finger on the pulse" of our organization's more than 30,000 supporting members. I can thus assure you that they – as well as all of the professional staff at American Rivers – want firstly to thank you the Corps of Engineers for its careful appraisal of the changing circumstances and public attitudes with regard to the Missouri River – and secondly, to make it known that they throw their full support behind the Corps' proposed Flexible Flow alternative (GP2021). It does not give us conservationists everything that we might wish for – but it is a reasonable compromise – and strikes a fair balance between and among all the conflicting needs and the varied interests of the great country.

My colleague, Missouri River specialist Chad Smith, will provide you with more detailed comments during the public comment period, so I will limit myself to emphasizing a few general points in support of the Flexible Flow alternative.

The Flexible Flow alternative provides a modest way to help fish and wildlife without disrupting "traditional" uses of the river. It is the only alternative proposed by the Corps that fully captures the recommendations of the United States Fish and Wildlife Service. The Flexible Flow alternative will afford the Corps the authority and flexibility to prevent the extinction of three species – the piping plover, the interior least tern, and the pallid sturgeon – while boosting populations of other species like the sauger, smallmouth bass, and other game species. It will

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support recreation and tourism without overly burdening other uses of the river. In simple terms, better flows equal better fishing, more tourism, and stronger local economies.

The barge industry and certain agricultural interests have raised concerns about skyrocketing shipping rates and catastrophic flood events. Sound scientific evidence proves that these concerns are not supported by facts. The Corps of Engineers' **OWN** analysis shows that the Flexible Flow alternative will provide flood control – increase overall hydropower benefits – support Missouri River navigation at key times – increase support for Mississippi River navigation – **AND** protect floodplain farmers.

I thank you for the opportunity to speak on behalf of American Rivers and for our 30,000 members from the Missouri River basin and nationwide. They realize, just as you do, that the Master Manual, a document written in the 1960s, no longer fills the needs of the 21st century. The time has come to begin managing the Missouri River to meet the basin's current economic **AND** environmental needs.

Thank you.

ST. LOUIS, MISSOURI TRANSCRIPT— NOVEMBER 13, 2001

US ARMY CORPS OF ENGINEERS

NORTHWESTERN DIVISION

OMAHA, NEBRASKA

IN RE: MISSOURI RIVER STUDY

TRANSCRIPT OF PROCEEDINGS

BE IT REMEMBERED that on Tuesday, November 13, 2001, the US Army Corps of Engineers met in a Public Hearing at 7:00 p.m. at the Radisson Hotel & Suites, 200 North Fourth Street, St. Louis, Missouri, 63102, at which time the above entitled cause came on for hearing before Colonel David Fastabend, Hearing Officer.

A P P E A R A N C E S

CHAIRMAN: COLONEL DAVID FASTABEND

TEAM MEMBERS: LARRY CIESLIK
ROY MCALLISTER
PATTY LEE
ROSEMARY HARGRAVE
PAUL JOHNSTON
RICHARD MOORE
JODY FARHAT
BETTY NEWHOUSE
JOHN LARANDEAU

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P R O C E E D I N G S

(Hearing commenced at 7:00 p.m.)

COLONEL FASTABEND: Okay. If you intend to get a chair, I'd recommend a chair to you, if you want to go ahead and take it, we're going to get this underway.

My name is Colonel David Fastabend and I'm a member of the Armed Forces of the United States of America. I introduce myself in that way for a special reason tonight. A lot of us are here tonight, we've got problems. We're worried about the Missouri River; we're worried about whether we're going to get our e-mail in our rooms tonight; we're worried about our flights home tomorrow, but there are other Americans other places worried about other things. Right now it's about 1900 hours, it's early morning, still dark over Afghanistan. You can bet pretty good money there is an Air Force pilot over Afghanistan right now. He's concentrating, he's totally focused. He's totally focused on delivering a weapon to a target. He's applying years of training to do that with the best precision he possibly can do. It's a tribute to the nature of our culture as Americans that he is worried not only

about detecting an anti-aircraft missile launch, he is probably worried about whether or not he's going to do collateral damage. There is not many other countries in this world that worry about things like that.

There is probably a sailor on the deck of an aircraft carrier. He may have been working for fourteen hours. He is in one of the noisiest, most dangerous environments known on the planet. He's tired, he's worried about himself, he's worried about his crew, he's worried that someone is going to make a mistake. There is hundreds of pounds of aircraft hurtling passed him about an arm's length away; that's what he is worried about tonight.

There is probably a Marine living in less space than the surface of this table. He's on a ship several miles away. He's doubled up, he's cleaning his weapon, he's been waiting for five weeks for the word to go somewhere and he's worried that he's not going to get the word. That's the way Marines are, they're fabulous people, and that's what he's worried about.

There is probably somewhere in a hilltop in Afghanistan in a place we'll never know about an Army Special Forces Sergeant and he's in a hole that

he dug in that hillside three or four days ago. He's got a special canvas cover over the top of it with a few inches of dirt and some snow. He's worried about getting out of that hole before it gets light so he can stretch his legs and go to the bathroom. He's worried that when he goes off-shift, goes to sleep, that the body heat in that hole is going to burn off the snow and his position might go to detected. He's worried that he'll miss his cave entrance he's been watching for several days to make sure that something important doesn't come in or out of it. That's what he's worried about.

So we've all got things to worry about and I don't want to stand here in uniform without mentioning those people who are worried about, believe it or not, much more important things than what we're dealing with. We are dealing with a very important issue, very contentious, very problematic, something that's been going on for years. I know everybody here as citizens of this great country is committed to give it their best thoughts and the best inputs and I thank you for being here.

I've got several people from Northwestern Division here on the Missouri River Master Manual Team and I want to point them out to you very

quickly. We've got Larry Cieslik in the back. Rose Hargrave in the hall. Roy McAllister, left rear corner there. Patti Lee by the door. Betty Newhouse is outside I think right now. John LaRandeau, right there in the red shirt. Paul Johnson off to the right. Rick Moore is going to be helping me up here. Jody Farhat. Also I've got my Deputy here from, Colonel Dan Krueger, in the uniform in the back. He's joined by Colonel Mike Morrow from the St. Louis District. We've got Mr. Mike White, one of my Deputies from the Northwestern Division. Mr. Mike Barth from the Kansas City District. Larry Kilgo, Don Flowers, and also from an agency Western Area Power Admin, Mr. Nick Staz. (Phonetic) Did I get that right? Staz, sir?

MR. STAZ: Yes.

COLONEL FASTABEND: Okay. Thank you. This is the twelfth of fourteen Hearings for the Missouri River Master Manual process. This afternoon we conducted an openhouse workshop. I hope some of you had a chance to go by. I understand we had about thirty, forty people go by and check out the workshop. The displays from the workshop are still up so I hope during the break, if we have to go long enough to take one, and I suspect this evening we

will, that you get a chance to go and look at those displays.

The agenda tonight is going to open with a short video. There is a welcome followed by a description of the projects and the features of the Revised Draft Environmental Impact Statement and the major impacts we foresee. We really want everyone to have the best possible understanding of the RDEIS. We've got copies of the RDEIS, we've got summaries, we have handouts available. If you can't -- if you don't want to take that with you, you can get it off the internet. I'm going to give you a little more fuller introduction after the video, but let's go ahead and get the video underway.

(Video playing)

(Back on the record after video played.)

COLONEL FASTABEND: The Hearing session will come to order. Our purpose this evening to is to conduct a Public Hearing of the proposed changes to the guidelines for the Missouri River Main Stem System Operations.

Before I proceed, we do have several

elected representatives I'd like to acknowledge this evening. We have Congressman Kenny Hulshof who is here with us. We also have Mr. John W. Smith representing Governor Holden. Mr. Charles Barnes representing Senator Bond. Mr. Tom Horgan representing Representative Akin. Mr. Don Lucietta representing Congressman Blunt, and Mr. Sando who is a representative for Governor Hoeven in the State of North Dakota.

This Hearing is being recorded by Mr. Bo Kriegshauser of Kriegshauser Reporting who will be taking verbatim testimony that will be the basis for the official transcript and record of this Hearing. This transcript with all written statements and other data will be made part of the administrative record for action. Persons who are interested in obtaining a copy of the transcript for this session or any other session can do so. Persons interested in receiving a copy need to indicate this on one of the cards available at the table by the entrance. Also if you are not on our mailing list and desire to be on our mailing list, please indicate this on the card. In order to conduct an orderly Hearing it is essential that I have a card from anyone desiring to speak, giving your name and who

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you represent. If you desire to make a statement and have not filled out a card, if you'll raise your hand right now we'll get a card over to you.

The primary purpose of tonight's session is to help ensure that we have all the essential information that we will need to make our decision on establishing the guidelines for the future operation of the Main Stem System and that this information is accurate. This is your opportunity to provide us with some of that information. We view this as a very important opportunity for you to have an influence on the decision. Therefore, of course we are glad that you are here tonight.

I want you to remember that tonight's forum is to discuss the produced changes in the operation of the Missouri River Main Stem System as described in the recently released Revised Draft Environmental Impact Statement. We should concentrate our efforts on issues specific to that decision. It is my intention to give all interested parties an opportunity to express their views on the proposed changes freely, fully and publicly. It is in the spirit of seeking a full disclosure and providing an opportunity for you to be heard regarding the future decision that we have called

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this Hearing. Anyone wishing to speak or make a statement will be given the opportunity to do so.

The Missouri River Main Stem System consists of a series of Corps of Engineers constructed and operated projects, so officially that makes the Corps a project proponent. However, it is our intention that the final decision on the future operational guidelines for these projects reflects the plan that considers the views of all interests, focuses on the contemporary and future needs served by the Main Stem System and meets the requirements established by Congress.

As the Hearing Officer, my role and responsibility is to conduct this Hearing in such a manner as to ensure the full disclosure of all relevant facts bearing on the information that we currently have before us. If the information is inaccurate or incomplete we need to know that and you can help us make this determination. Ultimately the final selection of a plan that provides the framework for the future operations of the Main Stem System will be based on the benefits that may be expected to accrue from the proposed plan as well as the probable negative impacts, including cumulative impacts. This includes significant social, economic and

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environmental factors.

Should you desire to submit a written statement and do not have it prepared, you may send it to the U.S. Army Corps of Engineers Northwestern Division at our office in Omaha and there is information here in the Hearing room as to the address, and the FAX number and the e-mail address. The official record for this Hearing will be open until 28, February, 2002. To be properly considered your written statement must be postmarked by that date.

Now before I begin taking testimony, just a few more words about the order and procedure that will be followed. When we call your name, please come forward to the lectern, state your name and address, and specify whether or not you are representing a group, agency, organization, or if you are speaking as an individual. You will be given five minutes to complete your testimony. If you are going to read a statement we would appreciate it if a copy could be provided to the court reporter prior to speaking so that your remarks will not have to be taken down verbatim. After all statements have been made, time will be allowed for any additional remarks. During the session I may ask questions to

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clarify points for my own satisfaction. Since the purpose of this Public Hearing is to gather information which will be used in evaluating the proposed plan or alternatives to it, and since open debate between members of the audience will be counter-productive to this purpose, I must insist that all comments be directed to me, the Hearing Officer.

With the exception of public officials or their representatives who will speak first, speakers will be given an equal opportunity to comment. Please remember such speaker will be limited to five minutes. We will be using a lighted timer. When the yellow light comes on it means you have two minutes of time remaining. When the red light comes on your five minutes are up. No portion of unused time may be allotted to another speaker. The purpose of the Hearing is to permit members of the public an equal opportunity to concisely present their views, information or evidence.

I will now call the names of those who have submitted cards beginning with the elected officials and beginning with Congressman Hulshof.

CONGRESSMAN HULSHOF: Colonel, thank you. For the record, my name is Kenny Hulshof,

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H-U-L-S-H-O-F. It is my privilege to be here. I represent Missouri's Ninth Congressional District and I first want to thank you for convening this Hearing. I think it's especially appropriate that we are here near the confluence of the Missouri and the Mississippi River. I'm privileged to represent a Congressional District that includes about 216 miles of river, about a 138 of the Mississippi and the remaining miles along the Missouri, and what I would like to do is just briefly touch on three areas: Flooding, I want to talk a little bit about environmental mitigation efforts, and navigation.

I am not -- In fact, I beg the indulgence of my constituents that are here, there are votes going on in Washington, D.C., tonight and I skipping those votes because I felt it appropriate really to be here. I'm not speaking on behalf of my colleagues, Missouri Congressional Delegation, Colonel, but I think as you know from the many pieces of correspondence that we have made to the Army Corps of Engineers, the Missouri delegation has been quite united in its effort especially on the issue of a spring rise or a split navigation season. It seems that as the state with the largest population of the eight basin states, it seems that we Missourians are

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the ones that are being asked to sacrifice the most and we really do believe that we can find a compromise acceptable to all of the river stakeholders and we'll continue to work toward this end.

A couple months ago in speaking with an Army Corps official regarding the upriver and environmental interests, the comment was made by a Corps official that the spring rise would only result in some, quote, "inconvenience flooding". I'm used to hearing such statements from special interest groups and maybe even the U.S. Fish and Wildlife Service, but to hear such comments from the Army Corps was a wake-up call to me quite frankly.

FC 8

I'm not going to offer a hypertechnical analysis of why these plans won't work for Missouri. I think that probably as you have been upriver you have heard from Missouri business people; you have heard from farmers, many of them are here tonight. There has been a lot of talk among the upriver interests and some of the environmental concerns that claims of potential flooding have been greatly exaggerated and obviously I dispute that claim.

FC 8

As you and I have chatted before, I think it's incumbent upon me a little bit to present the

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worst case scenario, and I note of interest -- and I appreciate the video earlier because it said that the spring pulse, and again I think that's a euphemism, or what somebody may call a spring pulse -- or I think another way it's been referred to is a hydrological modification and what that could have meant, and I know the video said that, well, it wouldn't have been done this year in 2001. Well, suppose this scenario: Suppose the upriver reservoirs had maintained a very high level through the weekend -- the Memorial Day weekend, which of course is quite important I'm told by recreational interests. On June the 1st the Missouri River at Hermann, Missouri was at 13 feet, and that's normal. Due to heavy rainfall upriver, on June the 8th, seven days later, the river stage was at 29 feet. That was an elevation at Hermann, Missouri of 16 feet in only one week. As you know, Colonel, flood stage is when the channel is full, damage begins to occur and in seven days the Missouri River in my District went from normal levels to eight feet above flood stage. Now, fortunately not a lot of damage occurred because we do have adequate structural flood protection built to withstand floods under the current Management Plan. But I shutter to think what would have

FC8

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happened if after the Memorial Day recess the decision had been made to send that controlled pulse or spring pulse down the Missouri River. As you know it can't be turned off once it is sent down. That man-made spring rise coupled with heavy rainfall provided by mother nature would have been in my estimation not only economically devastating but quite frankly potentially life-threatening. And while the upriver recreation industry would have been congratulating themselves, shaking their hands and heading off to the bank, we Missourians would have been consoling ourselves holding hands and stranded on our rooftops. And so I urge you through this decision-making process to consider that controlled flood. It's something that I cannot support.

I want to touch briefly -- I'm not a marine biologist, I'm not a scientist, there are those who provided that type of testimony, perhaps they're here tonight, but I do want to make a couple of points and especially I want to commend the Missouri Department of Natural Resources because they provided I think some scientific information that really disputes the claims of U.S. Fish and Wildlife regarding the pallid sturgeon and the piping plover and the least tern.

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I hope my statements here tonight will not be interpreted to say that somehow I'm against these endangered or threatened species. I'm in favor of all of God's creatures but what I would like to say is I think the Missouri DNR has made some really compelling arguments. The Missouri River here, at least on the lower end, on the lower river side here in Missouri already have natural fluctuations that resemble the natural hydrograph and despite these natural high and low flow conditions, certain species are still not flourishing. I think, however, I'm convinced as they are convinced that some off-channel mitigation efforts, perhaps some non-flow related mitigation and restoration habitat efforts could be done. I know clearly on the upper Mississippi some great progresses have been made with the EMP programs. I think similar restoration can be done on the Missouri River, and again I would defer to those experts in the field.

EnSp 29,1,26,48

Finally what I would like to talk about is just briefly regarding navigation, and again I point not only to the fact that we're here at the confluence of the Missouri and Mississippi, but I bring up the fact that I'm proud to be the Co-Chair of the Mississippi River Caucus. We have had a host

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of Hearings on the challenges on the upper Mississippi as well as the lower Mississippi and as you know, Colonel, I think with additional Hearings that are going to be on the lower Mississippi River region, that the manipulation or a change in the current Management Plan on the Missouri River is going to have very direct consequences as far as navigation along the lower Mississippi. The Inland Waterway System is crucial to American agriculture. I'm a farm boy, I grew up in the shadow of the Mississippi River down south from Cape Girardeau about thirty miles. One-third of our nation's agricultural products are exported to other countries and 60 percent of those commodities pass about a rock's throw from here through the locks and dams at Granite City and in Alton.

Nav 7
Miss 4
Rec 10

I point out the fact that I note also from the video in response it mentioned I think some 140 ports or terminals, and I would just say this to the recreational interests for those upriver, they point to the fact that the recreation and the millions of dollars in recreation, and compare that to, vis-a-vis, to the amount of navigation that's done on the Missouri River, and yet if I were a business person involved in inland waterway transportation

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1 this debate has been raging for eleven years through
2 three presidential administrations, through four
3 Missouri governors and I'm not sure that with the
4 economics hanging in the balance whether or not I
5 would make any additional investment on the Missouri
6 River because of this very difficult decision that
7 you now are going to make. So I would respectfully
8 say to those upriver that I think that -- and even on
9 the Army Corps of Engineers' web page it mentions the
10 disparity between the upriver recreational interests
11 and the downriver navigation. And so I think that's
12 a little bit skewed because this debate has been
13 going on for nearly twelve years.
14 The other point I would make, now shifting
15 to the lower Mississippi region, Missouri River flows
16 are absolutely critical to Mississippi River
17 navigation. At times the Missouri provides as much
18 as 60 percent of the water flowing between St. Louis
19 and the mouth of the Ohio. Without those adequate
20 river flows the Mississippi River navigation would
21 either be seriously curtailed or perhaps completely
22 stopped.
23 Now we had the opportunity in our
24 Mississippi River Caucus to take testimony from one
25 Emmitt Neal. Mr. Neal is the Director of Marine

Miss 4
Nav 59

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1 Operations for Magnolia Marine Transport Company down
2 in Vicksburg, and just a couple of quick points and
3 I'll conclude. He indicated that the split season,
4 the low summer flows, that is low flows in the
5 summer, that that alternative projects an average
6 annual cost to Mississippi River navigation of
7 forty-five million dollars. Those costs he said
8 would have to be based on channel inefficiencies and
9 it would have to be borne by Mississippi River basin
10 producers as well as shippers and consumers.
11 In fact, Mr. Neal pointed out to our
12 Caucus, Colonel, that two summers ago in August of
13 1999, Mississippi River levels at Memphis, Tennessee,
14 were critically low. Tow boats were moving as few as
15 twenty-five barges through stretches of river that
16 would normally accommodate thirty-five. Individual
17 barge capacity was reduced by hundreds of tons in
18 order to accommodate the lower water. Traffic
19 continued to move, however, largely due to the
20 Missouri River releases and in August of that year,
21 in 1999, the Corps, as you probably are familiar
22 with, was releasing water at a rate of nearly 50,000
23 cubic feet per second.
24 Under the worst case scenario, the split
25 navigation concept, the Corps, if you release water

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at 15,000 cubic feet per second, that difference equates to roughly three feet of draft, three feet of water at Memphis, Tennessee. And so, again, I think you'll probably hear more of that type of testimony as you head down river.

In conclusion, again I appreciate the chance that you have given me to maybe expand my time a little bit, I appreciate that, I would respectfully ask that you do everything within your power to show to the people of Missouri as well as the upriver interests that you are choosing a Management Plan that doesn't put our Missourians' safety in peril by implementing this controlled flood in the springtime or a plan that includes the split navigation season.

I would adopt the statement of the video that there are 30,000 homeowners in the Missouri floodplain. That translates to 30,000 families and countless businesses, large and small, and towns large and small all along the Missouri River. We cannot stand any more economic hardship, especially a hardship that's caused by our own government. And with that I would appreciate the opportunity to talk with you and if you have any questions I would be happy to answer those as well.

Other 7
FC 2

COLONEL FASTABEND: Thank you very much,

Congressman.

CONGRESSMAN HULSHOF: Thank you, Colonel.

COLONEL FASTABEND: Next we'll hear from Mr. Jack Smith representing Governor Holden.

JOHN SMITH: Good evening, Colonel Fastabend. My name is John Smith and I'm the Deputy Director of the Missouri Department of Conservation, and on behalf of Governor Bob Holden and the State of Missouri thank you for this opportunity to share thoughts and observations with you this evening on the topic. I very much appreciated, sir, your comments regarding our armed forces men and women who are in harm's way as we speak and I appreciated that very much.

This issue is of supreme importance not only to Missouri but to the entire nation and we want to thank you for holding this Hearing to listen to the comments and concerns of the people of Missouri. As Missouri continues to evaluate the newest data from the Corps we will be looking to ensure that the Missouri River remains a river of many uses, including recreation, navigation, agriculture, hydropower, water supply and fish and wildlife conservation. Balancing the interests of both the upstream and downstream reaches of the river is

25

absolutely essential to achieving this goal. Because of the vital importance of these issues, Missouri maintains that all decisions must be based on sound science. We strongly believe that if all sides of this discussion commit themselves to adherence to solutions founded on valid scientific studies that will enable us to make substantial progress on resolving the issues that have been debated for so many years.

Contrary to some representations, Missouri is firmly committed to improving the environmental health of the Missouri River, however we believe there are ways to achieve these benefits while still protecting and possibly enhancing the lives and livelihoods of the Missourians who live on or near the banks of the Missouri River. A significant concern to Missourians is that many of the proposals in the Revised Draft Environmental Impact Statement include plans to increase total system storage in the upper lakes. We have apprehensions that such changes would significantly reduce the ability of the Corps to ensure that the river is managed to the benefit of all residents of the basin.

Other 7, 198

The Corps must have adequate flexibility to respond to a wide variety of situations, both

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anticipated and unforeseen. We believe these proposed changes to storage levels in the upper lakes would limit the Corps capacity to perform its statutorily mandated role. Missouri has further concerns that these changes to total system storage could eventually restrict the use of water by downstream states and thus be detrimental to the future welfare of Missourians. Missouri strongly opposes any plan that would reduce the amount of usable water released to downstream states.

Other 23

Furthermore, in light of the importance of the endangered species in this discussion, Missouri also suggests that the effects of increased storage of water in the upper lakes on the endangered species be examined. Comprehensive data regarding the impact of higher level in the upper lakes on endangered species is not currently available and we believe this information should be included in this dialogue.

EnSp 20

A second key component of many of the current proposals is for a variety of reduced flows from Gavins Point down in the summer. The flow levels and timing of the current proposals differ significantly from the historic hydrodraft. Missouri recognizes that a properly timed and propositioned reduced late summer flow will likely benefit some

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sections of the river's ecosystem. We thus support efforts to achieve a flow level that help these species while also ensuring that the long-term viability of river commerce on the Missouri River is not degraded. Missouri believes that such a flow level exists. Our state has advocated a reduced flow of 41,000 CFS at Kansas City from August 1st through September 15th. The goal of this proposal is to accomplish these flow conditions approximately three of every five years in order to balance the interests of endangered species, recreation and the continued support of other uses of the Missouri River.

EnSp 53,3
Fish 10
Nav 49
Rec 27

Proposals to depart from the current operations must also consider the effects of any changes on Mississippi River System navigation. The entire Inland Waterway System depends on the supplemental flows from the Missouri River into the Mississippi. We do not support proposals that are detrimental to the long-term viability of navigation on either the Missouri River or the Mississippi River.

Miss 4
Nav 59

Finally, any reduced summer flow alterations must be water neutral. As we said before, Missouri will strenuously oppose proposals that reduce the amount of usable water released to downstream states.

WS 11
Other 9

A third key component of many of the current proposals is a periodic spring rise created by releases of additional water from Gavins Point Dam during May. Missouri has serious concerns that the current proposals for expanded spring releases could have adverse effects from the bottomland farmer in Missouri, including flood risk, increased flood risk, higher ground water levels and inadequate drainage throughout the lower basin. Additional spring releases could potentially compound the effects of large rainfall events downstream of Gavins Point, thereby increasing the risk of unanticipated flow levels of downstream states. The dangers of such a spring rise are increased because water from Gavins Point takes approximately ten days to reach St. Louis. Spring flooding keeps farmers out of their fields during the planting season, and higher ground water levels reduce yields, thereby having a significant negative impact on Missouri's bottomland farming community. Missouri's agricultural community must be a top priority in this discussion and we will strive to ensure that the agriculture community along the Missouri River remains viable and profitable in the 21st Century. Such concerns must be weighed against the fact that the lower stretches of the

IntD 8
GW 7
FC 8

29

Missouri River, including the entire 553 miles in Missouri already receive an a natural spring rise from tributary inflow. Thus, such a change would have little impact on the rivering species living in the stretch of the river within or bordering on the State of Missouri.

EnSp 29

One issue that has occasionally been lost because of the more contentious nature of some of the other proposals is the importance of habitat improvement projects in restoring the aquatic diversity lost to creation of the upstream lakes and channelization and bank stabilization efforts over the last fifty years. Missouri believes that an active program of habitat creation and restoration augmented by appropriate alterations to late summer flows would substantially assist the recovery of the endangered species. Our State has undertaken a number of habitat improvement projects often in concert with the Corps and we believe these cost effective and uncontroversial efforts deserve significant investment by the Federal Government.

EnSp 1,48
Fish 10

Finally, one issue of high importance to our State which is not currently in any proposal but has been raised at various times during this discussion, is the possibility of water transfers out

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of the Missouri River basin. Missouri unequivocally opposes out-of-basin transfers. Such transfers constitute economic and ecological threats giving the existing demands for water within the basin and the needs of species dependent on the river for their survival.

In conclusion, Missouri is firmly committed to restoring and protecting the Missouri River and ensuring that the river is managed for all citizens. As the evaluation process and proposed changes continue we want to reiterate the importance of basing all decisions on sound scientific data and further urge that all of the potential impacts and opportunities to both the Missouri and Mississippi River Systems for each component of every proposal be considered.

Other 22, 70

Thank you for the opportunity to express this position on these extremely important issues.

COLONEL FASTABEND: Thank you, Mr. Smith. Mr. Barnes from Senator Bond's office.

CHARLES BARNES: Good evening. My name is Charles Barnes and I'm the District Office Director for Senator Christopher Bond. I would ask if you do have any questions that you direct them to our office if Washington, D.C.

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I'm here to read the following testimony on behalf of Senator Kit Bound who is in Washington and could not be here tonight, as I read from Senator's Bond statements.

Colonel Fastabend, members of the Corps and my Missouri neighbors, I regret that I cannot be here tonight because the Missouri Hearings have been scheduled during the middle of the week when the Senate is in legislative session. Thank you for the opportunity to provide initial public testimony. I renew my previous request that the comment period be extended and an additional Public Hearing be held in Missouri at the end of the public comment period so that experts in our State have a fair opportunity to review the hundreds of pages of technical data. In summary, I believe the government should protect the people from flooding, not cause floods. It should produce more efficient transportation options, not railroad monopolies, and it should continue to clean -- continue to clean production of hydropower, not discourage it. This is always the case but it is even move obviously the case when our economy slows and jobs are at risk and families are feeling serious economic pain. The Fish and Wildlife Service's plan fails because the plan's value to fish habitat is

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FC 6, 8
Nav 8
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HPower 2, 18
Miss 4

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dubious while its risk to people is very real. The strategic political success the Fish and Wildlife Service and the Corps have achieved to date have been based on, first, on their ability to pretend magically that management of the Missouri -- that management of the Missouri only hurts Missouri River commerce and does not hurt Mississippi River commerce as if the two are unconnected.

Secondly, their success is built upon their ability to assert that the plan will only flood farmers, not urban communities. Representatives will testify this evening from large urban communities who represent thousands of citizens and hundreds of businesses worth hundreds of millions of dollars. They have flooded numerous times in the decade past. They understand the tragedy of flooding and it has cost the Urban Levee Districts and taxpayers dearly.

FC 8

This administration did not start this mess but they are left to clean it up. The President will soon have language approved by Congress in the Energy and Water Appropriations Act for 2002 which clearly -- which states clearly that the Secretary of the Army may consider and propose alternatives for achieving species recovery other than the alternative specifically prescribed by the United States Fish and

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Wildlife Service, end quote. It says further that, quote, "The Secretary shall consider the views of other federal agencies, nonfederal agencies and individuals to ensure that other congressionally authorized purposes are maintained." End quote.

Other 2

This language means two things. It means the Fish and Wildlife Service does not have a monopoly on this process and it means that the Army must maintain flood control and navigation.

EnSp 3
Other 2, 7

In the end, I believe that the process can and will produce positive initiatives to help fish and I believe that it will do so without selecting an alternative which injures people and property. The proposition before the government is as follows: Shall this government increase your flood risk, bankrupt water transportation, leave shippers to the mercy of railroad monopolies, and reduce energy production during peak periods of energy demand during an emergency crisis because there is a chance it might help three endangered species. This experiment is too dangerous and defies common sense. People downstream rely on the river for their livelihoods and they know the risks and have felt the economic and human loss when the river behaves outside its average tendencies. The Corps suggests

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FC 8
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that on average few will be hurt much. But it isn't the averages that we are worried about, it is the additional extremes that we cannot tolerate. As everyone here knows in Missouri, on average it is neither hot nor cold. The Fish and Wildlife Service like the rest of us want to be there -- want there to be more pallid in the river, but the Service also wants to avoid going to court and since some have threatened to sue them if they don't propose a spring rise and summer low flow, they propose a spring rise and summer low flow. They then attempt to market it to the public as being necessary because it is natural when, in fact, it is not. They propose a dramatic summer low during the time when we experience the unregulated historic peak highs as a result of upstream snow melt. The summer flow they propose is not a natural flow as they suggest. We are fully aware of the natural spring rise because in Missouri we already have one. It is dangerous and it floods rural and urban communities without warning. When it rains in the spring unregulated tributary flows swell the river from normal flood -- from normal to flood stage in hours as it did in early June, and this is the monster that the Fish and Wildlife Service wants us to flirt with by adding

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what they call "no more than three feet," quote/unquote, of water in the spring.

Until officials can accurately make 14-day weather forecasts, they're simply playing Russian roulette with the gun barrel pointed at our heads. According to the nonpolitical, nonregulatory scientists at the Department of Interior, USGS, quote, "Currently decisions regarding water and floodplain management on the Missouri River must be made without the benefit of long-term in-depth scientific information to document changing conditions on the river." End quote.

FC 8

The science of a river of this size is extremely complex and understanding of how everything interacts is understandably minimal. That is why the Fish and Wildlife Service is really hanging their hat on their concept of Adaptive Management so that they will be free to make additional changes to river management as they say, quote, "Without having to go through another 12-year process." End quote. They don't want the public involved and they want this flexibility because they apparently don't believe that the specific spring flood and summer low flow proposal will restore the pallid.

Other 3, 10

Seven years ago the Corps' spring rise

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plan was condemned from Omaha to New Orleans by the public. Everyone should be reminded that it was the Clinton Administration in 1994 who proposed it, only to reject it subsequently. It was their Secretary of Agriculture and Secretary of Transportation who vigorously opposed the Corps' plan in 1995 representing the honest views of cabinet level officials.

Governor Holden, the Mississippi River governors of Kentucky, Tennessee, Louisiana, Mississippi, Illinois, Arkansas, Wisconsin and Minnesota wrote to the President earlier this year to communicate their opposition of this plan because of the impacts it will have on the Mississippi River, which you will learn more about when you travel to Memphis and New Orleans.

While I would not be surprised to see our Brazilian competitors proposing to eliminate U.S. water transportation, it is not something that one would expect from our own government, particularly during an economic slowdown. Our vacation from history where some can afford to throw people out of work, take our factors of production and economic base for granted is over. People are hurting and our government should be proposing massive transportation

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modernization and economic development, not economic surrender and transportation decay. It is inexcusable that we would hear our government propose bankruptcy for an important industry at any time and particularly in a recession. There are nearly one hundred organizations of the Natural Waterways Alliance from Virginia to Oklahoma, from Mississippi to Minnesota, to Alabama to Nebraska to Louisiana to Ohio and Pennsylvania, who have written in opposition to what the Fish and Wildlife Service is trying to impose. The American Soybean Association, National Corn Growers Association, Farm Bureau, National Association of Wheat Growers, National Grain and Feed Association and other national groups who represent farmers have written in protest of the Service's proposal. I believe what will happen at the end that did not happen seven years ago is that the administration will actually identify projects and approaches that build habitat but do not injure people or people and property. The Bush team will work with the Congress, the states and the public to fund and implement them aggressively. There are many ways to improve fish and wildlife habitat without hurting people and property. That should be and will be the ultimate positive approach

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that I believe the government will take.

I believe that the upstream states who spend a small fraction of what our state spends on conservation should have a role in devoting more of their own resources to improve the river. What this debate between the states is really all about is who gets water when it is dry, and the fact of the matter is that we all suffer when it is dry. I don't blame them for asking for more water when it's dry, just as they should not blame us for wanting more water, but we are not hiding behind the Endangered Species Act to argue our case.

Finally, many brave men and women are in harm's way risking their lives as we speak to keep this country safe. At home we must make our economy strong and we look to the government to work with us, not against us in fulfilling that mission.

I thank the public for being here tonight and I thank the Corps for being available to listen. Thank you very much, sir.

COLONEL FASTABEND: Thank you, Mr. Barnes. Next we'll have Mr. Horgan from Congressman Akin's office.

TOM HORGAN: Hi. My name is Tom Horgan and I'm here representing Congressman Todd Akin who

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cannot be here tonight. He is in Washington tonight where they are voting, however he asked me to read a statement on his behalf tonight.

Good evening. I want to extend a warm welcome from the St. Louis region to members of the United States Army Corps of Engineers Northwest Division. I appreciate the opportunity to provide comments on the Corps of Engineers' Revised Draft Environmental Impact Statement for the Missouri River Master Manual. This issue is of vital importance not only to the St. Louis region, but to the entire State of Missouri as well. However, before I express my comments on the Revised Draft Environmental Impact Statement for the Missouri River I want to inform you about the area that I represent and how that area is impacted by the Missouri River. As a U.S. Congressman I represent the Second Congressional District of the State of Missouri which includes West and Northwest St. Louis County and a good portion of St. Charles County. The Missouri River separates these two counties. The Second District borders the Missouri River from approximately River Mile 49 all the way to its confluence with the Mississippi. If you look at this map, the blue shaded area indicates where the Second Congressional District borders the

Missouri River. Needless to say my constituents on both sides of the river are impacted by it in a number of ways. Heavy flooding and severe drought are just a couple of examples of how river conditions can affect the Second District.

If you'll look at these two aerial photographs, you will notice that the top photo shows the Missouri River near its confluence with the Mississippi River during the Summer of 1988 during drought conditions, while the bottom photo shows the same area of the Missouri River during the height of the '93 flood. These two photos illustrate a striking contrast of how the Missouri River can affect this river of prime farm land in northern St. Charles County.

In its Revised Draft Environmental Impact Statement the Corps has released a range of six alternatives for the operation of the Missouri River Mainstem Reservoir System. These alternatives include the Current Water Control Plan, a modified conservation plan consisting of lower summer flows during drought conditions, and four alternatives which consist of annual lower summer flows and increased spring releases from the Gavins Point Dam. The U.S. Fish and Wildlife Service recommended these

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spring releases and lower summer flows in its recent Biological Opinion to the Army Corps of Engineers. Out of all the six proposed alternatives the only alternative for the operation of the Missouri River Reservoir System that I can support is the Current Water Control Plan. All other alternatives consist of either a spring release and/or lower summer flows out of the Gavins Point Dam. I'm adamantly opposed to any plan that incorporates these flow changes from Gavins Point. I believe that these proposed changes to the Current Water Control Plan would have a devastating effect on Missouri's agriculture, navigation, water supply, electrical production and flood control interests.

A spring release or a spring rise would be very detrimental to Missouri's flood control interests because it would release more water during peak flood season and increase the chances of flooding on the lower Missouri River. In addition to this, a spring rise will also result in interior drainage problems for the numerous farmers along the river. Missouri's farming communities would feel the brunt of these increased water levels if a proposed spring rise were adopted.

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My agricultural constituents in western

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St. Louis and northern St. Charles Counties are particularly uneasy about any increased spring releases out of Gavins Point given their previous history with Missouri River flooding. I am also opposed to any lower summer flows out of Gavins Point because these low flows will result in a shortened or split navigation season which will virtually wipe out navigation on the Missouri River. This would be unacceptable because reliable navigation in the fall during and after harvest is absolutely critical for the agricultural and shipping communities.

Nav 12, 8, 6

Wiping out navigation on the Missouri River would be disastrous for several reasons. First of all, moving commodities by barge is more cost effective than moving them by rail or truck. It is widely believed in the business community that the mere presence of navigation on the river helps keep down the cost of other modes of transportation through a concept known as water compelled rates. Without navigation as a viable transportation alternative the cost of other modes of transportation such as rail, is likely to rise for all shipping dependent businesses. Water compelled rates result in savings to businesses and consumers because of the competition produced by the barge industry.

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Secondly, eliminating barge traffic would have a negative impact on the environment particularly here in St. Louis metropolitan region. Barges are the most environmentally friendly mode of transportation available. According to EPA, tow boats emit roughly 35 to 60 percent fewer pollutants than rail or truck. One modern Missouri River tow consisting of nine barges can hold the equivalent of 135 rail cars or 522 trucks. Without barge transportation on the river, air and noise pollution and fossil fuel consumption will increase. The St. Louis region which has been classified by the EPA as a moderate nonattainment area under the Clean Air Act Amendment of 1990 have been making valiant efforts in recent years to improve its air quality status. It would be counterproductive to the compliance efforts of our region if the Federal Government decided to undertake a measure that would negatively impact the air quality of our region.

Nav 23

Thirdly, eliminating barge traffic on the river would not be in the best interest of the safety of Missouri's traveling public because it will most likely force more truck traffic onto our State's already substandard and congested highways. Anybody who has driven Interstate 70 from St. Louis to

Nav 72

Kansas City will tell you that the last thing that highway needs is more trucks on it.

In addition to Missouri River navigation, I'm also very much concerned about the effect that the five other alternatives will have on Mississippi River navigation. During periods of low flow in the Mississippi River the Missouri River provides as much as two-thirds of the water to the bottleneck region of the Mississippi River between St. Louis, Missouri, and Cairo, Illinois. Combined with an increased depletions from the Missouri River system, all five other alternatives would significantly reduce water levels in the Mississippi to below required levels for effective navigation. The issue of reliable Mississippi navigation is crucial to both Missouri and the entire Midwest since approximately 60 percent of all U.S. bulk agricultural products are moved to world ports by the upper Mississippi system. Any resulting halt in barge traffic on the Mississippi would have a crippling impact on interstate commerce.

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Finally, low summer flows particularly those advocated by the Fish and Wildlife Service and the Gavins Point alternatives would seriously affect the ability of the utility companies to provide adequate supply of drinking water and electricity to

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the people of Missouri.

As stated previously, the U.S. Fish and Wildlife Service's Draft Biological Opinion recommended higher spring releases and lower summer flows out of Gavins Point than which exist in the Current Water Control Plan. The Biological Opinion concluded that the Corps current operation of the maintain reservoir system jeopardizes the continued existence of three species, the endangered least tern, the threatened piping plover and the endangered pallid sturgeon. Therefore, these recommended flow changes in the Service's view constitute a reasonable and prudent alternative to recover these species. The Missouri Department of Natural Resources strongly disagrees with the Service's assessment on this matter. Independent analysis by both the MDNR and the Corps indicated that the Service's flow plan achieves very few of the desired conditions that biologists say are necessary to recover these species. This includes attributes such as shallow water habitat, floodplain conductivity and sand bar creation. The MDNR believes that off-channel and nonflow related mitigation and physical habitat restoration are the best ways to enhance species recovery. According to the MDNR, long-term physical

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habitat physical improvements make much greater gains than the minimal benefits that may occur with the Gavins Point spring rise. It is my understanding that substantial gains have been realized for these same endangered species on the lower Mississippi River using creative habitat restoration rather than altering flow patterns. I believe that this approach along with a comprehensive monitoring program should be initiated on the Missouri River as well. Therefore, out of six alternatives released by the Corps of Engineers I feel the current Water Control Plan is the only feasible alternative I can endorse. I also want to clearly state that I strongly oppose any proposed alternative for the management of the Missouri River that includes consistently higher reservoir levels, lower summer flows and a spring release from Gavins Point Dam and any further water depletions from the Missouri River basin.

In conclusion, I will continue to work with the Governor and the rest of the Missouri congressional delegation on the issue in order to protect Missouri's environmental, economic, agricultural, power and water supply interests. Missouri and the rest of the Midwest simply cannot accept the Revised Draft Environmental Impact

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Statement's proposed changes to the Current Water Control Plan.

Once again I thank you for allowing me the opportunity provide comments here on this issue tonight.

COLONEL FASTABEND: Thank you, Mr. Horgan. Next we'll hear from Mr. Lucietta representing Congressman Blunt's office.

DON LUCIETTA: Colonel, my name is Don Lucietta and I am the Agricultural Agribusiness Specialist for Congressman Roy Blunt, the Chief Deputy Whip of the U.S. Congress whose district does not border the river, and I only mention that to let you know that Congressman Blunt feels it's an important matter to all of the delegation of Missouri and important enough for him to have a representative here tonight, and he also wants me to extend his thanks to you, Colonel, and the Corps for providing these Hearings and providing a forum for people to make comments on the plan. Let me just read what Congressman Blunt has said.

The Missouri River is an important part of the lives of many of my fellow Missourians and I believe it is imperative to continue the productive and responsible use of the river. The Missouri River

plays a vital role economically and environmentally in the lives of all citizens of the State of Missouri. The level of the river is controlled to help protect those who live, work and own businesses on its banks from devastating floods. Many industries also located near the Missouri River utilize it to transport goods economically. It is also home to a large variety of fish and wildlife species. All of these interests must be taken into account during the decision-making process. With that in mind, the U.S. Army Corps of Engineers needs to continue the Current Water Control Plan which best address the needs of those affected by the management of the Missouri River. The alternative management plans proposed by the U.S. Army Corps of Engineers sacrifice flood control and year-round availability of barge transportation. It is unreasonable to endanger human lives and property to provide fish and wildlife species with flow conditions that may, that may prove beneficial to them. The Current Water Control Plan is a management plan that balances fish and wildlife habitats with economic and financial concerns. We should strive to strike a balance between the environment and the livelihood of Americans that depend on the Missouri.

Other 6

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Alternative management plans to the Current Water Control Plan are problematic for a number of reasons. First, increased reservoir levels in the upper basin lakes which would be caused by the implementation of one of the other management plans reduce the water commitment to lower basin states. This reduced water commitment adversely affects irrigation, transportation, drinking water and utility operation.

WS 11

Secondly, the increased spring rise would leave the river vulnerable for flooding. The danger of flooding is also great without altering the flow to make floods more probable.

FC 8

Thirdly, water levels during the summer months would fall to such a level that barge transportation would be impossible. This would devastate those who depend on river transportation by forcing them to utilize more costly means of overland transportation. It would also be a crippling blow to those companies whose barges travel the Missouri River.

Nav 3, 12

I urge the U.S. Army Corps of Engineers to adopt the Current Water Control Plan in order to ensure responsible river management.

Nav 79

And Colonel, I might just add myself that

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as Congressman Hulshof mentioned, we are very close to the confluence of the Missouri with the Mississippi River and not long ago I had the opportunity to be on the river at that point. In my mind it doesn't take a big stretch of the imagination to conclude that any change in the flow of the Missouri into the Mississippi could have dramatic effects on the Mississippi, on the locks and dams, on the 60 percent of the ag. products that flow from the upper states down the Mississippi, and as people manage the flow of the rivers it behooves us to be good stewards with the power given us, the Corps has been in the past and I know will be in the future. Again thank you on behalf of Congressman Blunt for the opportunity to testify.

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COLONEL FASTABEND: Thank you, Mr. Lucietta.

Next Mr. Sando from Congressman -- excuse me, Governor Hoeven's office.

TODD SANDO: Colonel Fastabend, my name is Todd Sando. I'm the North Dakota Assistant State Engineer and I'm here representing the Governor of North Dakota. I thank you for the opportunity to testify on this very important issue. Governor Hoeven provided testimony on the Revised Draft EIS

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on October 23rd in Bismark, North Dakota. Governor Hoeven's testimony and the detailed written comments that North Dakota state agencies will be submitting describes the State's position on the Draft EIS.

I'm here this evening to listen to the concerns of our downstream neighbors and to provide a brief description of North Dakota's position. I attended the November 6th meeting in Kansas City and I was pleased to hear so many people asking for change. While many concerns were voiced regarding change, it is apparent that this is no longer an upstream versus downstream issue. The long period of study and negotiation has moved many people throughout the basin closer to a compromise plan for operating the Missouri River. My message tonight is the same strong and clear message that North Dakota and most of Missouri River basin states have been voicing for years. Missouri River Master Plan must be changed to meet the contemporary needs of the basin and the time for this change is far past due. Any of the five alternatives described in the Draft EIS are an improvement over the Current Water Control Plan. The drought conservation measures included in the five new alternatives are essentially those agreed by seven of the eight Missouri River Basin

Other 7, 198

Association member states. I'll refer to that as MRBA the rest of the way.

The drought conservation measures promoted by MRBA are an improvement over the 40-year-old Master Manual and should be implemented as soon as possible. Strictly from North Dakota's standpoint, they do not go far enough. However, we recognize that progress often requires compromise and as a result we favored a plan that would be supported by seven of the eight Missouri River basin states. This MRBA plan includes the conservation measures that the upper basin states need but does not include a spring rise below Gavins Point due to the many downstream neighbors. The Draft EIS shows that these drought conservation measures increase the total NED benefits of the system as well as benefits of most authorized uses. Unfortunately, Missouri River navigation benefits are slightly reduced under any of these alternatives. However, navigation is only one of the authorized purposes of the reservoir system. The benefits of all the uses must be considered equally when operation decisions are made.

It should also be noted that although navigation support for the Mississippi River is not an authorized purpose of the Missouri River dams, all

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five of the new alternatives reduce the average annual cost of the Mississippi River lost navigation efficiency. The MRBA spent a great deal of time developing features that would provide this benefit to the Mississippi.

Although Missouri River and the operation of dams are critical in North Dakota's future, we realize all of the states in the basin depend on the river. North Dakota does not consider the Missouri River to be only our water and we do not want to -- and we do want to equitably share the water, but this includes both pain and gain. Approximately one-third of Missouri River basin's total runoff enters the river above Gavins Point Dam. About 75 percent of the runoff entering main stem reservoir comes from Montana and Wyoming. Essentially all the storage of water is in North Dakota, South Dakota and Montana.

Over 1.6 million acres of land was acquired by the Corps for the reservoirs in these three states. Promises were made and the dams were authorized by Congress in regard to water development and water use. For example, O'Mahoney-Milliken Amendment, which is part of the 1944 Flood Control Act, states that the use of water from the reservoirs for navigation shall not conflict with any beneficial

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consumptive use present or future in the states lying wholly or partly west of the 98th meridian. Given these facts, perhaps you can understand why we become slightly annoyed when we see published comments by the state of Missouri claiming it is all their water.

Comments have been made about the impacts of the Dakota Water Resources Act on the Missouri River. The Dakota Water Resource Act is a vastly scaled down version of the original Garrison Diversion Project and provides only a fraction of the irrigation promised to North Dakota in compensation for the land lost to the reservoirs. The exact water needs for North Dakota included in the Dakota Water Resource Acts have not been determined and, in fact, are only in a study phase. However, the amount is likely to be only few hundred cubic feet per second compared to an average annual flow of the Missouri River at Hermann, Missouri, of over 79,000 cubic feet per second. To state it another way, the Dakota Water Resources Act will put to beneficial use less than one percent of the annual flow at Hermann. I doubt that the USGS gauge can accurately measure such a small amount.

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Lastly, I thank you and our downstream neighbors for the opportunity to describe

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North Dakota's position. I ask that everyone take away from this meeting that the benefits of the Missouri River and the pain and shortages in times of drought should be shared equitably through the basin. Thank you.

COLONEL FASTABEND: Thank you, Mr. Sando.

All right. I believe that exhausts our list of elected officials or their representative. Now we'll go to public comment and we're all going to be on the five-minute clock.

MR. MOORE: Charles Scott.

CHARLES SCOTT: Good evening, Colonel Fastabend. For the fourth time, and the last time for me in Missouri, I'm Charles Scott. I'm with the you U.S. Fish and Wildlife Service in Columbia, Missouri.

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Good evening. My name is Charles Scott. I'm here this evening on behalf of the U.S. Fish and Wildlife Service to issue a brief statement on the Revised Draft Environmental Impact Statement for the Missouri River Master Water Control Manual. I'm also here to listen to comments in person from citizens on this important issue.

The Service has primary authority for oversight of our nation's rarest animals under the

Endangered Species Act. The Missouri River is home to the endangered pallid sturgeon and least tern and piping plover. The decline of these species tells us that the river is not healthy for its native fish and wildlife and there needs to be a change in its management to restore the Missouri to a more naturally functioning river system. A healthy river provides wildlife habitats for its fishing and makes boating an attractive recreational activity. Congress committed the Federal Government to preventing extinctions by requiring federal agencies to use their authorities to conserve endangered and threatened species. During the last twelve years our agency has been working with the U.S. Army Corps of Engineers to modernize the management of the Missouri River to help stabilize and hopefully begin to increase and recover populations of these very rare animals. This new approach was described recently in a document called The Missouri River Biological Opinion published in November, 2000. The Biological Opinion looks at the river as a system and outlines the status of these rare species, the effects of the current operation on them in a reasonable prudent alternative to the current operation that will not -- that will not jeopardize their continued existence.

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1 Our Biological Opinion is based on the best available
2 science and includes nearly 500 scientific
3 references. In addition, we sought out six
4 respective scientists, big river specialists to
5 confirm the need to address flow management as well
6 as habitat restoration.
7 Further, the Missouri River Natural
8 Resources Committee, a group comprised of the state
9 experts on Missouri River management, endorses the
10 science and the opinion. If you have read the RDEIS
11 summary document you understand that the GP
12 alternatives encompass the range of flows identified
13 by the Service as necessary below Gavins Point to
14 keep the listed species from being jeopardized. Our
15 agency and the Corps also recognize the importance of
16 some flexibility in management that would enable
17 Missouri River managers to capitalize on existing
18 water conditions to meet endangered species
19 objectives without having to go through another
20 12-year process.
21 Other management changes included in the
22 Biological Opinion include a spring rise out of Fort
23 Peck Dam, an improved hatchery operation to assist
24 declining pallid sturgeon populations, restoration of
25 approximately 20 percent of lost aquatic habitat in

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1 the lowest one-third of the river intersystem,
2 unbalancing of three largest reservoirs and
3 acceptance of an adaptive management framework that
4 would include improved overall monitoring of the
5 river.
6 In closing, the Service supports the
7 identified goal of the Revised Master Manual to
8 manage the river to serve the contemporary needs of
9 the Missouri River basin and nation. These needs
10 include taking steps to ensure that threatened
11 species are protected while maintaining many other
12 socioeconomic benefits being provided by the
13 operation of the Missouri River dams.
14 The Service stands behind the science used
15 in the opinion and is confident that the operational
16 changes identified in our opinion and included in the
17 RDEIS as GP alternatives will ensure that these rare
18 species continue to be a part of the Missouri River's
19 living wildlife legacy. The Missouri River is a
20 tremendous river with significant revered heritage.
21 Our influence has altered the river greatly. Changes
22 are needed to modernize and restore health to the
23 river to the benefit of rare species and people, too.
24 Thank you.
25 COLONEL FASTABEND: Thank you, Mr. Scott.

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MR. MURPHY: Bob Cox.

BOB COX: Good evening, Colonel. Bob Cox with Jeff City River Terminal and Midwest Cement Company, Jeff City, Missouri. Jeff City River Terminal and Midwest Cement Company are involved in towing barges to and from Jefferson City, Missouri, and involved in loading and unloading barges at the Jefferson City location on the Missouri River. We barge in bulk cement from Hannibal, Missouri, and Clarksville, Missouri, and sometimes prefab concrete forms and transformers have been unloaded at this location. We need a minimum of an eight-month navigation season to get products to Jefferson City, Missouri, in the early spring and out in the fall. We are opposed to a split navigation season and ask to continue the plan that is in place at this time. Towing barge units with an eight-foot draft provides 1300 and 13 ton per barge or 52 truck loads per barge, and a six barge tow we can bring in 312 truck loads to Jeff City. This is burning less fuel per ton moved and the air quality from emissions from the engines is less in proportion than by truck. This is less foreign oil being used, less contaminants to the air which is an advantage to all of us. By having an eight-month navigation season we can provide a better

Nav 12, 23

service for our customers. Thank you.

COLONEL FASTABEND: Thank you for your comments, Mr. Cox.

MR. MOORE: Janet Melzer.

JANET MELZER: Thank you for allowing me to make this statement. My name is Janet Melzer. I'm from O'Fallon, Missouri. I represent myself and my family. Although I have lived in urban areas for the last thirty years I grew up on a farm where we worked Missouri bottom land. This gives me both a city and rural viewpoint for most issues. I support the current river plan although not the Adaptive Management part of the plan. The reasons for my support of the current plan are based on knowledge of the effects of spring rise, reduced summer flow, threatened species and bank stabilization, including the proposal for Adaptive Management.

To start at the end with Adaptive Management, as I want to emphasize this point throughout, the use of Adaptive Management in itself is good as all good plans need to modify as they move forward but the team that is proposed is the problem. The team needs to be a blend of Corps, Fish and Wildlife or other environmental groups and business people including agriculture, navigation, recreation

Other 6, 10

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and other affected businesses. Business including agricultural must have major input to this as they are the group affected.

If you look at a map of Missouri, a great part of the land adjoining the Missouri River is agricultural use. The farmers have the experience of a lifetime of working with the river in good and bad times and cannot afford to have a new plan start working against them. They must have input to the ongoing operation of the plan, therefore Adaptive Management must include business people involved, the farmers.

Other 10

Spring rise is the hardest point of the plan for me to understand. How can anyone who has ever had anything to do with the Missouri River ever think that spring rise, even every three years, is a good plan for anything. Saying that they would control the release in high water years is irresponsible as no one can know within ten days what the weather will be in the lower Missouri. Not only is planned spring rise risky for agriculture, it endangers all businesses along the Missouri River. We have all seen the best of levees popped by nature. Besides just endangering all businesses, it increased the problems of interior drainage and drowned out

FC 8
IntD 8
GW 7

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crops even if the levees hold. Spring planting cannot move forward when interior land is soggy and farmers and businesses who needs loans in the spring rise years can count on higher rates or even loan denials. I can't imagine how insurance companies who provide floodplain property coverage will account for this every third year.

The plan for lower summer flow will affect me directly as a city dweller. I commute every day on Highway 70 to my job and back. The number of tractor trailers is a vein to any traveler, even if you are going to the Mizzou game on Saturday morning. Just when we are worrying about the safety of what trucks might be carrying, all plans except the current plan take away barge traffic. Just when oil drilling and burning of fossil fuels is a major issue, all plans except the current plan add more trucks to the highway, burning more fuel. Highway safety is a constant goal and yet these other plans add to the problem. Groups who are most against the drilling and consumption of fossil fuels are bent to remove the more efficient barge traffic and up the truck traffic.

Nav 23

As a total animal lover, who anyone knows me would attest I am the first to defend an animal,

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but as a farm girl I learned that even my best pets did not come ahead of people and their needs. If you review your RDEIS Summary Chart comparing the impact with the Current Water Control Plan you see that for all other plans the majority of the positive effects are for wildlife habitat and fish habitat in lakes and rivers with small numbers for recreation and small numbers for hydropower. And if I understand your hydropower numbers correctly, the subtractions for costs for lower summer flows may actually subtract from these numbers even more. I do understand from other sets of experts that even the plans for tern and plover improvement may not be well-founded.

HPower 2, 18
EnSp 9, 3

The negative effects for all plans besides the current plan influences economic issues of flood control, interior drainage, ground water navigation and historic properties. All plans beside the current plan even have negative effects on repairing habitat. So we are taking from some environmental groups and giving to others while negatively affecting all economic issues. The Endangered Species Act must be weighed against all other issues and cannot be the only driving force for every action we take no matter the consequences. Farmers live

FC 8
IntD 8
GW 7
Nav 30
CR 7
EnSp 3

with the land and nature daily and must be listened to when these are the issues.

A few last words about bank stabilization. My family has lost land in recent years to the river due to removal of some dikes in the Missouri River. The farmers again were not consulted or had any say, yet their lands were negatively affected and valuable riversite habitat and woodlands are lost.

ErSd 29

In closing, I think you got my point here, I vote for the Current Water Control Plan. Thank you.

COLONEL FASTABEND: Thank you, Ms. Melzer.

MR. MOORE: Dennis Wingertsahn.

MR. WINGERTSAHN: Good evening. My name is Dennis Wingertsahn and I'm the Vice-President of Operations for Missouri-American Water Company. We appreciate the opportunity to provide comments to the Corps of Engineers concerning the Revised Draft Environmental Impact Statement and future management of the Missouri River.

Missouri-American operates three water treatment plants that use the Missouri River as their source of supply. Although we are in support of managing the Missouri River in a manner that protects our natural resources, it is equally important to

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consider the impacts of any dramatic flow changes on businesses including the agriculture, navigation and water and power supply industries, as well as citizens of the State of Missouri.

Missouri-American Water Company depends on the Missouri River to supply over one million residents of St. Louis County and Jefferson City, Missouri, with clean, safe drinking water. The two Missouri River water treatment plants in St. Louis County account for 80 percent of the potable water provided to our customers in the St. Louis Metropolitan area. It is imperative that sufficient water be available to effectively provide this necessary service to Missouri residents as there is no adequate alternate source of drinking water available.

WS 11

Of the alternatives identified in the RDEIS, we support the extension of the Current Water Control Plan. Missouri-American Water Company opposes any plan to decrease Missouri River flows that may compromise our ability to pump sufficient water to meet the drinking water needs of our customers. Based on past operating history and difficulties in periods of low flow we would be unable to operate effectively and economically given

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any additional flow reductions. Additional water restrictions could hinder our ability to provide a reliable source of potable water during the summer months when demand is at its highest and could impair pumping operations in the winter months due to low flows. In fact, low river levels experienced as recently as December, 2000, threatened to limit our ability to withdraw adequate quantities of water to meet demand. Further, a lower flowing river, as well as flooding conditions present water quality and operational problems thereby creating additional difficulties and expense in treating water to quality standards. Our company has a paramount interest in maintaining the integrity of the river as this is the same water we must treat in order to supply the public with safe drinking water that meets the extensive drinking water quality standards set by the United States Environmental Protection Agency. It is also important to note that our operations rely on the ability to receive reliable electric service and it is imperative that our access to this source of power not be compromised.

MoPower 1, 3

The RDEIS Summary states the Gavins Point releases would be adjusted in the spring and summer if necessary to improve habitat. While we support

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species habitat restoration and believe there may be better ways to accomplish the intended objectives, the uncertainty of these adaptive management flow adjustments and the manner in which they would be conducted create a legitimate concern as it relates to the availability and amount of water in the Missouri River. Water flow in the Missouri River must be managed with both environmental and economic concerns in mind and in a manner that will not place our drinking water supply in jeopardy.

Other 13, 70, 79

WS 11

In closing, the availability of a reliable and predictable water supply from the Missouri River is critical in order to provides millions of Missouri citizens with a constant source of safe, clean drinking water both now and in the future. As such we request that the operation plan implemented by the Corps be flexible enough in nature to respond to changing downstream river conditions by adjusting releases from the upstream reservoirs to maintain the river within reasonable and necessary levels. This would include ensuring adequate flows during the summer period when withdrawal from the river for water supply are greatest, and during the winter months when ice formation can cause unusually low river conditions.

WS 11

Missouri-American Water Company will continue to review and analyze historical operating data and the alternative water control plans, and will provide additional comments to the Corps prior to the close of the public comment period.

Finally, it is important for us to remember that water is a nonrenewable resource and it is critical to the State of Missouri that the Missouri River continues to be a consistent dependable source of water to its citizens.

WS 11

Thank you for your consideration to these comments.

COLONEL FASTABEND: Thank you, Mr. Wingertsahn.

MR. MOORE: Eric Williams.

ERIC WILLIAMS: Good evening and thank you for making an effort to hear Missourian's comments about the Missouri River. My name is Eric Williams. I am the manager of rail grain and barge logistics for MFA Incorporated. MFA Incorporated is a cooperative made up mostly of farmers that provide goods and services to thousands of farmers across the Midwest states.

I have many different concerns when talking about the Missouri River, however this

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evening I chose to talk to you about something I deal with every day, navigation on the Missouri River and the impact it has on Midwest farmers. As you have already heard in previous comments, farmers and businesses rely heavily on the Missouri River for various different functions, but navigation is a high priority to existence. Navigation plays many key roles but one of the most important roles which sometimes is overlooked is how navigation on the Missouri keeps railroad companies in check, so to say. The presence of the Missouri River forces railroads to compete. Of course railroad companies cannot provide transportation services as inexpensive as water transportation but it does keep their prices in the general vicinity. For example, barge freight on fertilizer from the Gulf of Mexico to Kansas City, Missouri will cost around ten dollars per short ton. The rail freight on fertilizer from the Gulf to Kansas City costs around fourteen dollars per short ton. The rail freight is still four dollars off barge freight, however to the railroad this is competing.

Nav 6, 8, 7

Now without the river's presence you'll see the rail rate rise considerably. The same fertilizer to Lawrence, Kansas, which is about

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forty-three rail miles away from Kansas City, costs around twenty-four dollars per short ton. It doesn't take a genius to figure out that it doesn't cost the railroad ten dollars per short ton to move -- to travel forty-three miles. This is true all up and down the river. Barge freight to Omaha, Nebraska on fertilizer is around fifteen dollars per short ton. Rail freight to Omaha on fertilizer is around seventeen dollars per short ton. The rail freight to Fremont, Nebraska, which is thirty-six rail miles away will cost around twenty-four dollars per short ton. That's a seven dollar per short ton increase for traveling thirty-six miles. You will always see considerably lower rates in cities located along the river compared to cities away from the river. The further away from the river you travel the potentially higher rates you will see. To reiterate this point, the river forces railroad's to compete for a piece of the market share.

Another issue is that most railroads are already experiencing shortages in equipment. Just this last fall railroads didn't have enough equipment to supply the needs of many of our locations in a timely fashion and forced us to shut down that location for an unknown period of time. When a

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location shuts down that means it no longer has any space to store or take in grain. What does this mean for farmers? Farmers could be forced to haul grain further than expected and wait in longer lines to empty their trucks. That increased cost -- That's an increased cost without an increase in return. If railroads are already experiencing shortages can you imagine what they will be like without navigation when one barge means fifteen extra rail cars or sixty extra trucks. You see an incredible increase for equipment that isn't available.

In short, most small farms will not survive if railroad and trucks are the only transportation means. There will be too large of an increase in demand for rail cars and trucks for those two industries to handle. The simple supply and demand theory will tell you that with all the increased demand they'll be considerable costs associated which can be seen by the farmer when they go sell their grain or buy their fertilizer.

I grew up on a small farm and I know firsthand how hard it is to survive. Therefore, I am against any changes in water flow on the Missouri and can only support the Current Water Control Plan. Thank you.

COLONEL FASTABEND: Thank you, Mr. Williams.

MR. MOORE: Charlie Kruse.

CHARLES KRUSE: Good evening, Colonel Fastabend. My name is Charles Kruse. I own and operate a family farm in Stoddard County, about 150 miles south of where we are tonight. I also serve as President of the Missouri Farm Bureau, the state's largest general farm organization. Many of our members are here tonight and I'm proud to represent them and all of our 95,000 member families in the State of Missouri.

First, I want to commend the Corps' staff for their perseverance and hard work. They have always been willing to answer our questions and listen to our concerns, and we appreciate that.

For the record, Farm Bureau strongly opposes the flow changes now being considered. While we remain hopeful that a balance can be achieved, with the exception of the current plan, none of the options are acceptable.

Many people in this room have been involved in this issue since its inception. In fact, I gave the following remarks at a Public Hearing on the Corps' Preferred Alternative in October of 1994,

and I quote, "To farmers, the detrimental impacts of the plan appear obvious and very immediate while some of the stated environmental goals and objectives appear far more vague and harder to verify. We fear that plans such as the Corps' preferred alternative fail to adequately consider the human population and only serve to further undermine public support for reasonable efforts to protect fish and wildlife."

Colonel, today seven years later, we find ourselves facing the same alternatives and our position has not changed.

Unfortunately, what started out as a debate about drought management has evolved into a referendum on the Endangered Species Act, an attempt to expand significantly the Missouri River mitigation program and an all-out assault on river commerce.

Other 7, 9, 70, 275

The U.S. Fish and Wildlife Service cites the Endangered Species Act as a reason for their rigid position. According to them there is but one very prescriptive way to avoid a jeopardy opinion. From where we sit, that is very hard to believe.

EnSp 3,8,2,5

It is ironic that Congress has voted, on several occasions, to support language prohibiting the Corps from implementing a spring rise. In fact, Congress has now made it perfectly clear that the

Other 2, 264

Corps must maintain all authorized uses of the Missouri River.

In Farm Bureau we have members that farm in all twenty-five counties along the Missouri River. They continue to struggle with extremely low commodity prices and rising input costs. In fact, the Federal Government has had to step in for four consecutive years with emergency economic assistance.

The Bush Administration has indicated that we must be more involved in global markets. In other words, we need to be more competitive. If that's the case, shouldn't we be doing everything possible to enhance river commerce not only on the Missouri River but other rivers as well, such as the Mississippi? Losing river commerce not only eliminates an important mode of transportation but also gives the green light to railroads and trucking companies to raise their rates and further congest crowded highways and railroads. Shouldn't we be making every effort to decrease the risk of flooding in the fertile bottoms? Our farmers already know the impact of higher flows in the spring. The fact is, we already have a spring rise and we don't need to be a part of a contemporary science experiment.

Nav 6, 8
Miss 4

FC 6, 8

It makes no sense to force farmers in

rural communities to participate in a risky scheme that may or may not increase populations of three species.

EnSp 3

In closing, we're not opposed to any change. We believe there are alternatives that could enhance aquatic habitat without major system modifications, without massive new land acquisition perhaps, without significant increases in energy costs, without controlled flooding and without out of basin transfers.

Other 7, 70

For this reason, we have no choice but to strongly oppose the alternatives currently under consideration.

Colonel, I thank you for the opportunity to present our comments.

COLONEL FASTABEND: Thank you, Mr. Kruse.

MR. MOORE: Donald Huffman.

DONALD HUFFMAN: Good evening. I'm Donald Huffman of Phoenix Towing Company. We've operated tow boats and barges on the Missouri River since 1962.

Colonel, I've also fished the Madison, Jefferson, Gallatin and Yellowstone Rivers. I'd like you to know that the Missouri River is an important part of my livelihood and an important part of my

life. The comments regarding the Revised Draft EIS.

Other 7, 23, 48
FC 8
Nav 12
Miss 4
HPower 2, 18
EnSp 7,46

Flow changes proposed by the U.S. Army Corps of Engineers will flood farms, end Missouri River navigation, damage Mississippi River navigation, cause shippers millions of dollars, raise the cost of electricity and do nothing for fish and wildlife. Corps data shows that only benefit from flow changes for terns and plovers is 164 acres of habitat; 164 acres of habitat. The Corps should go buy a bulldozer and create 164 acres of habitat. The Corps should create habitat but do not destroy farms, jobs and economics to Missouri and Mississippi River navigation.

EnSp 5,37,29

Spring rise is touted as necessary as a spawning cue for the pallid sturgeon, yet the U.S. Fish and Wildlife Service admits the spring rise may not work. I suggest that it will not work. Let us look at the facts. The pallid sturgeon habitat exists in over 1500 miles of river including the Yellowstone River, the Chapalia (phonetic) River, the Mississippi River and portions of the lower Missouri River, all of which already has a spring rise. Why aren't the pallid sturgeon reproducing in these areas? What good will an added 216 miles of Missouri River habitat do to induce these fish to breed if

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they do not breed in the 1500 miles of existing habitat that currently has a spring rise? It doesn't make common sense.

The proposal by the U.S. Fish and Wildlife Service backed in this plan by the U.S. Army Corps of Engineers would seem to be an abuse of the Endangered Species Act. It does nothing for the terns and plovers and it does nothing for the pallid sturgeon. It does, however, flood our farmers, it destroys Missouri River navigation and damages Mississippi River navigation.

EnSp 3,8
Nav 12
Miss 4
FC 8

I would like to comment on Adaptive Management. The Adaptive Management process is an ongoing dialogue between the Corps of Engineers in the environmental communities, the purpose is to review ways in which to enhance the environment for fish and wildlife. As it now stands, navigation, agriculture, hydropower and other users will not participate in this process. It is imperative that this group not be allowed to change the flows or releases out of Gavins Point or to redefine the lake levels to the detriment of navigation, agriculture or other users. Adaptive Management is a significant concern for anyone who relies on the certainty of flows. What would be the next scheme to come out of

Other 3, 10

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Fish and Wildlife and what would be the effect on agriculture, flood control, navigation, power generation and recreation?

It seems that U.S. Fish and Wildlife has no concerns for people's livelihoods or homes. They seem to propose plans that ignore the needs of people. But in this case it seems to be worse, they're ignoring the needs of people and in the process they're not doing anything to assist endangered species.

EnSp 3,8

In conclusion, we recommend that the Corps operate the system as described by the Master Manual. It makes common sense to stay with the Current Water Control Plan. All flow changes proposed are destructive to navigation, agriculture, and power supply and are unacceptable. Thank you, Colonel.

Other 6

COLONEL FASTABEND: Thank you, Mr. Huffman.

MR. MOORE: Paul Agathen.

PAUL AGATHEN: Good even, Colonel. My name is Paul Agathen at Ameren Corporation. I am Senior Vice-President with responsibility for environmental issues, public policy and other administrative departments.

Ameren is the parent of two utility

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1 companies, Ameren UE and Ameren Cips (phonetic)
2 Ameren UE is the largest electric utility company in
3 Missouri. Together the two companies provide power
4 to 1,500,000 customers and natural gas to 300,000
5 customers in Illinois and Missouri.
6 My comments tonight reflect our
7 preliminary analysis of the Revised Draft
8 Environmental Impact Statement. We will continue our
9 review and provide additional detailed comments at a
10 later date. However, at this point in our analysis
11 this much is clear, the alternatives to the Current
12 Water Control Plan will increase to some extent the
13 likelihood and expected duration of full impartial
14 outages for at least two of our major power plants.
15 When that happens we will be forced to look for
16 replacement power. If that power is not available or
17 if it cannot be imported to our area because of
18 transmission constraints, our customers will face an
19 increased likelihood of blackouts. Even if the power
20 is available in our region it will be more expensive
21 than the power we generate. Under Missouri's rate
22 making process, this added cost will be borne by our
23 customers.
24 For the most part the remainder of my
25 comments will be directed toward explaining and

MoPower 1, 3

1 elaborating on these key facts. First, let me cover
2 the critical issues related to our ability to
3 generate power. The proposed alternatives could
4 actually have a negative impact on the operation of
5 five of our power plants, representing 73 percent of
6 Ameren UE's generating capacity. All five rely on
7 water from the Missouri and Mississippi Rivers for
8 their operation. We're particularly concerned about
9 the impact on our two largest power plants, the
10 Calloway Nuclear Plant and the Labadie Coal Plant,
11 the workhorses of our generation system. Both plants
12 are in the Hermann reach of the Missouri River and
13 they account for nearly 45 percent of Ameren UE's
14 total capacity. Both rely on adequate water
15 resources year-round for cooling and other purposes.
16 Without it, we risk power supply for the entire St.
17 Louis metropolitan area and eastern portion of the
18 State of Missouri. Faced with these shortages we can
19 normally buy power. However, low flow conditions
20 have the potential to create regional power shortages
21 that could prevent us from securing power elsewhere.
22 And, in fact, other utilities also have generating
23 plants on the Missouri River and could be facing the
24 same generation problems.
25 In addition, as I mentioned, even if power

MoPower 1, 3

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were readily available, transmission system constraints can limit our ability to import energy. The loss of our two largest plants coupled with an inability to secure adequate power from other sources could also severely jeopardize the stability of the transmission grid. Under a worse case scenario we could be facing a full or partial blackout of the entire system because of these imbalances, and unfortunately these problems are most likely to surface in the months of weather extremes when power outages could be the most harmful to our customers.

Let's look at this proposal more closely. One of the options under consideration is an extension of the Current Water Control Plan. Compared to the current plan the other alternatives would to varying degrees decrease the summer river flows below the Gavins Point Dam. With these proposed flows, the Labadie Plant could be forced to limit operations due to water quality discharge permit limitations during the period of summer peak generation. We're also concerned that future depletions from the reservoir system will exasperate low water flow conditions.

MoPower 1
WS 11
WQ 1
Other 172

Summer is not our only concern. The other alternatives also result in a slightly higher

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incidence of critical low flow conditions that may jeopardize winter operations at Labadie and Calloway. The record low water levels on the river typically occur during the winter when the demand for power is also high. Last December, for example, river levels at both plants reached dangerously low levels due to ice jams, dry weather and reduced flows. Had the river dropped much further Ameren would have been forced to temporarily cease operations and this could have left thousands of families without heat during that unusually harsh winter.

WS 11

Given these critical conditions, any decision on flow alterations must be based on sound science. Any decisions to adopt sacrifice the congressionally mandated project purpose of water supply users and millions of people these rivers serve.

Other 7,22

Also, based on my reading of all the materials distributed at an earlier workshop it appears the Corps did not factor in the impacts on non-hydrogeneration which are more likely under the alternatives to the proposed plan.

MoPower 1

Finally, we would also like to remind the Corps that President Bush said as a national policy the implementation of a comprehensive energy policy.

Other 274

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As part of his plan President Bush issued Executive Order 13211 requiring federal agencies to review the potential energy impacts of regulatory actions.

In summary, Ameren supports the extension of the Current Water Control Plan. It is the only alternative that would not reduce flows for the Missouri River. We believe that the interests of water supply users and the millions of customers that we represent and serve should be of paramount importance here.

Other 6, 193

On behalf of Ameren, I would like to thank the Corps for providing this opportunity to make our comments. Thank you.

COLONEL FASTABEND: Thank you, Mr. Agathen.

MR. MOORE: Tad Kardis.

TAD KARDIS: Good evening, Colonel. My name is Tad Kardis. I'm with Missouri Attorney General Jay Nixon's office. Attorney General Nixon had planned to address you this evening but earlier today a matter arose that prevented him from being here tonight.

I think as at least two other speakers have observed before me, we stand here tonight near the confluence of two great rivers, the Big Muddy and

the Mighty Mississippi. The Corps has held meetings throughout the Missouri River basin, including no less than four in Missouri. We thank you for giving Missouri citizens so many opportunities to voice their concerns about the Proposed Master Manual Revisions. As the Corps rounds the bend and heads south for meetings in Memphis and New Orleans we take this opportunity to sum up some of the concerns we have relayed to the Corps over the last few weeks.

We have discussed with you the problems inherent of too much water or not enough water. That is, the risks of flooding and the threat of out of the basin transfers. In St. Joseph we raised the issue of power production and engaged the Corps again on this issue in Kansas City. The Corps acknowledges that many power plants depend on Missouri River water for cooling and heat dissipation. However, to put it bluntly, the Corps is confusing yet overly simplistic analysis of this issue fails to appreciate the true impacts of reduced summer flow.

MoPower 1

As you have heard here tonight, electric utilities have begun to offer the Corps their perspective on this problem, a problem that has many facets. Retrofitting costs, the cost of replacement power when plants are offline; blackouts if no

MoPower 1

replacement power is available; rate increases; possible effects on fish and wildlife. Many of these costs would be borne by Missouri citizens. We ask the Corps to listen.

We've also discussed the damaging effect of the Corps' proposal to use adaptive management in its future management of the river. From a legal standpoint we believe it would violate the National Environmental Policy Act. What does it mean to the public, though? Fewer or no opportunities to participate in the process that results in changes to the way the river is managed. We urge the Corps to follow the law and continue to include the public in this process. Don't make the 2002 Master Manual the last Master Manual.

Other 3, 10
Legal 6

We're puzzled over the Corps stated desire to serve the contemporary needs of the basin. While letting the basin define its needs may seem like a laudatory goal, attempts to achieve such an informal consensus have failed. Moreover, the needs of the basin are both defined and limited by Congress. By authorizing the building of the dams for navigation and flood control, Congress recognized that these dams served a nation, not just a regional purpose. Only Congress can redefine the needs of the basin.

Other 7, 198

Finally, we encouraged the Corps to recapture its control of this process. Instead of telling the Corps what problems face endangered and threatened species and letting the Corps propose engineering solutions to these problems, the Fish and Wildlife Service has both defined a problem and dictated a solution. Is this a good thing? Not if the Fish and Wildlife Service's engineering solutions don't solve the biological problems they define, yet this is precisely what has happened. The Fish and Wildlife Service gave the Corps its Biological Opinion. The Corps should consider the Fish and Wildlife Service's suggestions and develop alternatives that include proven methods of species recovery such as habitat modifications and improvements instead of chasing unproven flow modifications.

EnSp 3,1,48

The citizens of Missouri thank you for the opportunity to participate in this process. This river named for our state and flowing from one end of it to the other is important to all Missourians. Please manage it wisely.

COLONEL FASTABEND: Thank you, Mr. Kardis.

MR. MOORE: Roger Walker.

ROGER WALKER: Good evening, Colonel

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Fastabend. My name is Roger Walker. I have a bit of a cold, but I'll go on. I'm Chair of the Water Committee for the St. Louis Regional Chamber and Growth Association, that's St. Louis RCGA.

The St. Louis RCGA currently -- excuse me -- the St. Louis RCGA supports the Current Water Control Plan. While there must be literally hundreds of alternatives that St. Louis RCGA could support, the only plan on the table at this important public meeting that we can support is the current plan and we find -- we think that's unfortunate. We also offer the following comments.

As stated by other speakers tonight, we are here in large measure because of longstanding desire by upper Missouri River basin states to permanently take Missouri River water for recreation, irrigation and other demands. The Army Corps is proposing drastic changes on the basis of the U.S. Fish and Wildlife Service jeopardy Biological Opinion issued under the Endangered Species Act. The Biological Opinion itself is scientifically flawed and the Endangered Species Act we believe is being misused by those who hope to achieve higher reservoir levels and by those who hope to eliminate navigation. A related issue in our minds demonstrates that some

EnSp 3,8

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upper basin interests have an ulterior motive is the so-called Garrison Diversion that would allow an out-of-basin diversion from the Missouri River into the Red River which flows into the Hudson Bay. This unprecedented diversion is the tip of the iceberg for additional depletion, additional to the Missouri River flow.

Other 172

Our second point is that the listed species are at risk, however the U.S. Fish and Wildlife Service has not explored other alternatives. As Tad Kardis from the Missouri Attorney General's office indicated, they essentially have put together a demand, that essentially have presented us with only an option that was issued as an ultimatum for the U.S. Army Corps of Engineers to follow. It's not a true alternative and it's not an alternative that we can support in any degree. It's unacceptable that literally hundreds of alternatives to protect these species have not been examined or considered at public debate, and it's unfortunate that the Fish and Wildlife Service would essentially handcuff the hands of the Army Corps, the engineers by prevailing to -- by failing to provide these alternatives to protect species. All the options except the Current Plan would usurp the authority of the Army Corps of

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Engineers' longstanding legislative authority to manage the river. The concept of Adaptive Management as outlined in the alternatives not only defrocks the Army Corps of this important role but it subverts the National Environmental Policy Act, NEPA. The NEPA process is federally mandated and it's the best way to ensure the federal actions receive public scrutiny. As others have said, the spring rise puts Missouri farmers and our communities at risk for flooding. We have a natural spring rise. The proposed artificial spring rise in our region and state puts them at risk in ways that we cannot predict or control.

Other 3, 10

FC 8

We strongly oppose the split navigation season and see this as a thinly veiled attempt to end navigation on the Missouri River.

Nav 12

Finally, the role of unintended consequences is at play here. These proposals and supplement implementation will put drinking water resources of our region at risk through increased flooding, negative changes to river quality, or even inhibit the ability of our citizens to rely on a stable drinking water source. Businesses that rely on Missouri River as a source of water or that discharge into the river are placed at significant

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economic risk in terms of environmental compliance. These companies have learned to rely on the Missouri River and its historic flows and that has been putting them at considerable risk, a risk that has not been examined by the Army Corps and the risk that has not been considered in any of these alternatives.

With that I'll conclude and summarize by saying the St. Louis RCGA strongly supports the Current Plan and wish there were other alternatives that we could support and express our thoughts on but that's not the case. Thank you.

Other 6

COLONEL FASTABEND: Thank you, Mr. Walker. What I'm going to do is go ahead and let us take a break now. I have about 21, 22 minutes after nine o'clock. We'll reconvene at 25 minutes of, 9:35.

(A break was held.)

COLONEL FASTABEND: Okay. If you can take your seats, we're going to resume. We don't want too long of a delay or we'll have to start over. Nobody wants to do that.

MR. MOORE: Chris Brescia.

CHRIS BRESCIA: I presume if I don't start talking the light doesn't go on so maybe I'll get more than five minutes.

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COLONEL FASTABEND: As it gets later we're going to be stricter and stricter.

CHRIS BRESCIA: I will submit my statement but it's the only copy I have so I'm going to read it first and I'll dispense with the first page which talks about how great my organization is and how wonderful all the people are in this room who support the Current Water Control Plan and move right into some of the concerns that I have. Because I will not be able to complete what I would like to say in five minutes, I'll see Colonel Krueger in Memphis and then down in New Orleans and I'll complete it then.

Tonight what I would like to focus on are some of the elements before us. The presentation of documentation, Colonel; the biological basis for four of the alternatives; the methodology used to arrive at the conclusions; and the clear risk posed to the sustainability of the Missouri and Mississippi River navigation.

This next statement is not in my published text but I want to make comment to our friend from North Dakota who came here and just remind him that for two years we participated in negotiations on behalf of the navigation community. We offered to share pain, we gave our maximum and that was not

enough for North Dakota so we had to regrettably oppose the MCP Plan that eventually or adversely that emanated.

Our team is challenged to find ways to present very complex data affecting so many aspects of the river. However, by summarizing data over a hundred-year period the Executive Summary is rendered meaningless. Over a hundred years, any major negative impacts can virtually be eliminated.

Other 259

The fact that significant impacts to Missouri River navigation can still be demonstrated illustrates the severe level of destruction that could wrought to our region's economy. Companies that cannot operate for one to three years without profits will close but they are lost in your statistical compilation. Just as your hydrologists have attempted to validate their model based on known data, so too much your economists validate their impact analysis. This has yet to be done.

Nav 6

The GP alternatives are all based on a Biological Opinion issued by the Fish and Wildlife Service. This poor excuse for a scientific document presents well-researched theory and prescriptive conclusions. What's missing is empirical testing of the theory.

EnSp 30

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Today, Colonel, we would like to present for the record our critique of the Biological Opinion to the U.S. Army Corps of Engineers and request a response to every single point raised by our team of biological experts. If ever there are actions that diminish the credibility of government in the eyes of the public it is when we spend extraordinary time reviewing documentation, submit documentation and receive no response, and this is the document which I would like to enter into the record.

EnSp 47

It is important to understand that when we evaluate the hydrological models used to present these alternatives we are mystified that public policy decisions are expected to be made with so little regard to risk analyses. For the last seven years we have asked for plausible depletion scenarios that are still lacking. What if your model does not track with reality? Mother Nature has a way of continuing to challenge the Corps of Engineers and the water resource prognostication business. A shift of one foot in river stages in either direction is very likely and radically alters the feasibility of proposed changes to the Missouri River and the impact analyses.

Other 172

We have challenged the presentation of

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impact analysis in summary table format which lead to the comparison of apples to oranges, misleading the public. Opponents to navigation love to compare your numbers with recreation. Yet, if the Corps were to value recreation according to the same methodology as navigation, there would virtually be no NED benefits to recreation. If you can't water-ski in Montana, North and South Dakota, you can to Minnesota.

Rec 19, 27

Colonel, you have to excuse our pessimism, but right smack in the middle of your Public Hearing we received a briefing from your team on the navigation impact analysis. Some of the studies have just been initiated to confirm the impact analysis on the Mississippi River, however we are led to believe that the summary document is what the public should respond to. I would submit that it's always easy to plot out answers to models when you control the assumptions, but when those assumptions don't wash with reality, as we found in that briefing, you have a flawed process.

Nav 42
Miss 4, 29

The impact analysis on Mississippi River impacts that you share with the public is misleading and flawed. In fact, statistically your team should have eliminated outlier years that significantly skew your results. Just eliminating one year of data for

Miss 30

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1939 radically changes the summary impacts. Imagine what the public would find if they had access to each year of records and compare against business losses and foreclosures?

I would like to close with these key points regarding Mississippi River navigation and Missouri River. The GP proposals will lead to the end of commercial navigation on the Missouri River. Presenting the impact as 86 percent loss is statistical, not real.

Nav 12

The MCP proposal will lead to a slower death of commercial navigation on the Missouri River with shortened seasons. You cannot eliminate the down bound benefits at the end of a season and, like the retail industry, expect it to survive, neither can navigation.

Both the GP and MCP proposals will lead to significant impacts on the Mississippi River contrary to your Executive Summary analysis. Your team has had access to industry representatives and principals for over ten years and is just now getting to verify their views.

Miss 4, 21

Missouri River navigation's impact to the region far exceeds the seven million quoted in your documentation. This public needs to understand that

Nav 30, 35, 8, 23

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the commercial tonnage that moves on the Missouri is but a small part of the region's benefits.

In conclusion, I would like to remind you that there are over 38 million tons of freight that move in the basin at reduced rail rates due to competition from the Missouri River. We must make sure that the reliability of the documentation, all of the documentation is made public for individuals to consider.

MARC 2000 opposes five of the six alternatives and continues to believe that the Current Water Control Plan provides the best alternative to meet all Congressionally authorized purposes, including navigation, flood control, recreation, hydropower and fish and wildlife needs. After all, if it was under the Current Water Control Plan that recreation grew and prospered, it couldn't have been all that bad. Thank you.

Other 6

COLONEL FASTABEND: Thank you, Mr. Brescia.

MR. MOORE: Paul Bertels.

PAUL BERTELS: Good evening, Colonel. My name is Paul Bertels with the National Corn Growers Association. Many of the points I would like to make have already been made this evening, so I'll be

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rather brief.

The National Corn Growers Association places top priority on the economic uses of the Missouri River. Flood control, navigation, irrigation, and hydropower. Secondary importance should be recreation and environmental issues whenever possible. The only viable alternative the NCGA can support today is the Current Water Control Plan. It is inconceivable that the Corps would consider disrupting and distorting the livelihoods of thousands of U.S. farmers on such shoddy scientific theory. Why would you disrupt the lives of downstream growers for only a one to two percent increase in tern and plover habitat? Habitat I must point out that could easily and more efficiently be created mechanically without flow changes. Likewise, when you consider all the river range that the pallid sturgeon habitats, the lower Mississippi, Red River, Arkansas, and so on, these rivers all have natural spring rises, yet the pallid sturgeon is still endangered, but for some reason we're led to believe that a spring rise will save them on the Missouri.

EnSp 3,46

Finally, I want to comment on the impact on the upper Mississippi navigation. The split season will severely hinder navigation on the middle

Miss 4, 24

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Mississippi during middle and late summer, a crucial time period for shipping corn and other agricultural products. This year it was obvious that constrained flows similar to those proposed under the Gavins Point plan would have brought Mississippi navigation to a halt. Any accounting that does not fully reflect these Mississippi River impacts as navigation impacts is duplicatious at best.

In conclusion, the only alternative that the 32,000 members of the National Corn Growers can support is the Current Water Control Plan. Thank you.

COLONEL FASTABEND: Thank you.

MR. MOORE: Wayne Williams.

AUDIENCE: Was that Wayne Williams?

MR. MOORE: Wayne Williams.

AUDIENCE: He's gone.

MR. MOORE: Christine Favilla.

CHRISTINE FAVILLA: Good evening. Thank you, Colonel. I am Christine Favilla. I am with the Piasa Palisades Group of the Sierra Club and I want to thank you for the opportunity to present testimony regarding the citizens' desire for a balanced management plan for Missouri River within the flow frequency conversation.

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The Piasa Palisades Group of the Sierra Club believes that the primary goal of the Missouri River Management Manual should be to support native habitat restoration. All other management goals and recommendations should be subservient to this overriding goal.

Other 2

The Piasa Palisades Group has been active in the attempt to maintain the health and vitality of the regional river basin. This is located not only at the confluence of two rivers, but at the confluence of three rivers, it's one very special location in the ecosystem. We also have been in coordination with a broad-based coalition as we study the impacts that have occurred from managing the Missouri River for navigation purposes. Ecological destruction and loss of species throughout the basin, coupled with the negative impacts on the upper basin resources should heed warning to how the Missouri River has been managed and the change that must take place if a balanced ecosystem's chances to survive and flourish in the future. The influence of dams and levees and the resulting disassociation of the river from its floodplain, the ever increasing wetlands destruction, and the lack of thorough -- oh, the light just went on.

Other 7, 178, 182

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COLONEL FASTABEND: Sometimes you get a break.

CHRISTINE FAVILLA: Thank you. I'll start that over. The influence of dams and levees and the resulting disassociation of the river from its floodplain, the ever increasing wetland destruction and the lack of thorough scientific monitoring for water quality, habitat quality, species decline, and species recovery have lent themselves to an impaired and degraded national treasure.

Other 7, 178, 182

It is time to change the river's management practices and to work on improving the Missouri River system. The Missouri River once nourished an abundance of wildlife through the natural rise and fall of the water. Because of these flows, life proliferated in the river's sheltered backwaters, sloughs, mud flats, deep pools, oxbows, gravel bars, and marshes. The annual nourishment, life, and variety of habitats have been curbed by the construction of dams for a negligible navigation industry.

EnSp 7

The Piasa Palisades Group endorses managing the Missouri River for purposes other than for navigation, and while this suggestion may be revolutionary, we have found that the cost-benefit

Nav 11, 6, 8, 23, 18, 42

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analysis does not warrant management of the lower Missouri River for navigation. The Army Corps of Engineers continues to manage it for a non-existent barge industry and by comparing the original Corps waterway projections from the 1950s to the latest Corps traffic figures, one can see that the barge industry is currently at 12 to 20 percent of the original expectations. Commercial shipping only brings in seven million annually compared with the nearly 90 million in economic benefits each year that the angling related expenditures generate, such as resorts and local boat manufacturers.

Arguments attempting to support the navigation industry on this particular stretch alleges navigational flows on the Missouri River and the -- or, I'm sorry, on the Mississippi River are dependent on the Missouri River. Yet, questions aimed at all relevant state and federal agencies assert that the Missouri flow change would not cause an impediment of the navigation industry on the Mississippi. The Corps of Engineers has asserted a specific flow alternative would actually save the industry 7.3 million dollars per year, and that's on page 25.

Therefore, the Piasa Palisades Group of

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the Sierra Club supports the split-season flow regime for spring high flows once every three years, with summer flows occurring every year. The rising spring and early summer flow will help to create river habitat and provoke fish reproduction cycles. The low water in the late summer and fall will expose sandbars which provide essential shallow water habitat. Revising dam operations to accommodate both of these stages is essential if the Army Corps of Engineers is to manage the river in a balanced manner. Such management would undoubtedly be a positive environmental, community and economic benefit as it works toward the prevention of species extinction, provides recreation and tourism opportunities such as fishing, canoeing, boating and hiking, and even provides for some barge traffic. Of the diminutive amount of cargo that is transported by barge, at least 80 percent of it is moved before July and after August. This points to the ability to continue barge traffic under the recommended split-season flow changes with some modification.

The flow regime is only one of many components in the quest to return to a more river hydrograph. In order to manage the river and support native habitat, changes will inevitably have to be

EnSp 5,2

Rec 10
Nav 39

Other 70, 119, 218

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made within the Corps of Engineers' management system. Concerns include the topic of levees, the reconnection of flood plains and the river, the dams, Conservation Easement Funding, such as the wetlands reserve program, and thorough and scientific monitoring for water quality, habitat quality, species decline and species recovery.

I also would like to mention that we do support economic development of our nation but we do not do so at the expense of our natural ecosystem. Overall the United States citizens would save money through such proactive procedures as placing the land in easement.

Other 7, 70

I want to thank you once again for allowing the Piasa Palisades Group of the Sierra Club to comment regarding one of our nation's management plans on our waterway, the Missouri River Master Water Control Manual. We are pleased to see the Army's engineers is actively working towards a river management plan that balances the traditional uses of the river with environmental concerns, namely the restoration of native habitat and species recovery. In determining the flow regime, we hope the emphasis lies on the native ecosystem restoration. Thank you.

COLONEL FASTABEND: Thank you,

Ms. Favilla.

MR. MOORE: Johanna Beaudean.

JOHANNA BEAUDEAN: Good evening, Colonel. I'm Johanna Beaudean. I've lived in the city of St. Louis for the past six years and I grew up on a farm near Hermann and own land in the Missouri River bottom.

I would like to voice my support for the Current Water Control Plan, with modification to call for adaptive management. My support for this plan is based on knowledgeable and logical understanding of the effects of spring rise, reduced summer flow, adaptive management, species and habitat restoration and rock dike removal.

Other 70, 218

Our family lost 34 acres of bottomland forest when rock dikes were relocated or removed from the Missouri River. The removal of these dikes affected navigation on the river in addition to the effects it had on the family farm. Business owners in the area were not consulted prior to the decision being made to remove these dikes. As I stated earlier, this was bottomland forest. It was not land that was suitable for farming. It was not bringing in revenue for the farm, however it was an environment well suited for many species of wildlife.

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This brings me to the point of species and habitat restoration. Business owners and people on and along the Missouri River are committed to the restoration of wildlife habitat. They would be concerned with preserving, rather than restoring wildlife habitat if groups such as the Coalition to Protect the Missouri River had been consulted prior to making such rock dike changes to the Missouri River system. The Coalition to Protect the Missouri River is made up of 25 organizations, some of which include Missouri and Iowa chapters of the Farm Bureau, the Corn and Soybean Growers Association, Ameren UE and the Midwest Area River Coalition, which is made up of river navigators.

Other 70, 218

The business owners cannot do their part to adequately manage the privately owned land along the Missouri River without being part of the Adaptive Management Agency Coordination Team. This is a great opportunity for improved management of privately owned lands along the Missouri River. Involving business owners in decision allows them to manage their land in the best possible way, as they can work toward accomplishing the same goals as the other members of the Agency Coordination Team. It's also a great opportunity for the State of Missouri to gain

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input on expanding the use of publicly owned land along the Missouri River to improve wildlife habitat. The Coalition to protect the Missouri River will add a great deal of knowledge and value to the Agency Coordination Team and it would be a grave mistake to overlook the importance of this group in an Adaptive Management Plan.

Greater investigation into the plan for reduced summer flows reveals the damage that the implementation of such a plan would have on the State of Missouri. The representative from Congressman Akin's office accurately described these facts and I'll leave that point at that. However, I will say I don't believe that any of the factors regarding the damage to the environment or the economy were considered when proposing a reduced summer flow.

EnSp 2,5,37

The last point that I would like to touch on is the proposal for a spring rise every third year. It's very difficult for me to see how any benefit will come of this. I reviewed documentation from the U.S. Fish and Wildlife Service and could not find sufficient proof to justify a spring rise every three years. The USFWS has not proven that spring rise would actually prompt increased spawning or that increased spawning can save the pallid sturgeon.

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Again the plan that has been proposed for a spring rise will no doubt jeopardize the people of this state and there is a chance that it might save a sub-species of fish.

I would like to restate my support for the Current Water Control Plan with the before suggested modification to the call for adaptive management. I ask that the Corps of Engineers include groups such as the Coalition for Protecting the Missouri River as members of the Agency Coordination Team. I hope that I've made clear the costs associated with the spring rise and summer flow reduction and I challenge the U.S. Fish and Wildlife Service to develop solutions that can be proven to benefit these three specific species of fish and birds that do not jeopardize human lives and livelihoods in the process. Thank you.

Other 6, 10

COLONEL FASTABEND: Thank you, Ms. Beaudean.

MR. MOORE: Ted Heisel.

MR. HEISEL: Good evening. My name is Ted Heisel. I'm the Loan Policy Coordinator for the Missouri Coalition For The Environment, St. Louis. I'm speaking on behalf of the Coalition tonight.

The Coalition supports the recommendations

of the Fish and Wildlife Service as stated in Biological Opinion issued last November. We believe that if these recommendations are followed they will lead to a partial restoration of the Missouri River ecosystem and provide numerous benefits to wildlife and humans. These benefits include greater opportunity for floating, fishing, hunting, bird watching and many other activities on the river. While we have seen no evidence that the proposed flow changes are related to additional water depletion, we share the concern of other Missourians about large depletions in the upper basin. Such depletions pose a threat to river restoration and could eventually undue any progress made by the changes being discussed here tonight.

EnSp 8
Rec 6, 10
Other 172
Nav 43, 45, 46

The Fish and Wildlife Service's recommendations contain two primary components. The first is to return to a more natural hydrograph and the second is restoration of river and floodplain habitat. To some extent these are intertwined but neither one alone is sufficient. As for the flow changes, we believe the Crops' REDIS does a fairly good job at explaining the various alternatives. The Coalition urges the Corps to select alternative GP2021 which comes closest to mimicking historic flow

patterns on the river. This alternative will help restore some of the river's ecosystem primarily in the stretch below Gavins Point Dam but mostly above the State of Missouri.

It is also important to note that fears about increased flooding as a result of the proposed changes appear to be greatly overblown. The Corps' model showed there will be an insignificant impact on flood control as a result of the spring rise. It is our opinion that farmers have much more reason to be concerned about the proliferation of commercial and industrial levee development along the Missouri River which are causing floods to become much more frequent and more severe.

FC 8

The second major component of the Fish and Wildlife Service's recommendation related to the restoration of habitat. We are concerned that the Corps' RDEIS does not address habitat restoration apart from the flow changes and, therefore, will not avoid the extinction of certain species. As set forth in the Biological Opinion, twenty to thirty acres of shallow habitat must be restored each mile of the river to ensure that the pallid sturgeon does not go extinct. The alternatives in the RDEIS do not come close to providing this amount of habitat.

EnSp 26,2,48
WRH 6

Additional modifications should be made to the system of wing-dikes and bank fortifications to make sure that these habitat goals are achieved.

We encourage the Corps' expedited efforts to restore habitat along the lower river. For example, the previously authorized Missouri River Mitigation Project should become a top priority. This project could be facilitated greatly by additional funding in next year's federal budget. And I might add it was encouraging to hear the support for habitat restoration from many of the congressional representatives here tonight.

We are also encouraged by efforts of the Corps, Fish and Wildlife Service, Missouri Department of Conservation and the Missouri Department of Natural Resources to restore habitat on the lower Missouri. Areas such as Overton Bottoms and Lisbon Bottoms are demonstrating the environmental benefit of recreating side channels and reconnecting the river to its floodplain. These efforts are a very good start of bringing people and wildlife back to the Missouri River. Thank you.

WRH 6
EnSp 26

COLONEL FASTABEND: Thank you, Mr. Heisel.

MR. MOORE: Larry Daily.

LARRY DAILY: Good evening, Colonel.

Larry Daily. I'm President of Alton Barge Line from Bettendorf, Iowa. I came down here on a five-hour drive because we couldn't get you to come to Quincy. We appreciate you having a Hearing, though. I would also like to say I appreciate and very much respect the public turnout here this evening no matter which side of the issue you are on. In my mind you're doing something just as patriotic as those fine men in Afghanistan.

Alton Barge Line operates 400 barges, seven line boats. We employ about 400 people through fleet, ship yards, terminals from St. Paul to New Orleans. We've operated barges on the Missouri River this year and boats on the river until last year. While I'm not speaking for them, I am a member of the Inland Waterway User Board, congressionally mandated user group to look at the uses of the river and the expenditures of the Inland Waterway Trust Fund. I'm the Regional Vice-President of the Propeller Club of the United States, and I'm the Chairman of the Midwest Region of the American Waterway Operators, which includes the Missouri River in our territory. I'm also a second generation inland mariner. My father and my uncle both were pilots and captains on tow boats on the Missouri

River. Finally, I'm the father of two children who loves nature, loves the environment and wants to do everything I can to keep the earth safe for my descendants.

I will submit written comments later but I wanted to speak tonight about some key issues I oppose to all the alternatives except for the ESCWCP. The first was impact on the rest of the Inland Waterway System. Secondly, I question the benefits from the recreational boating on the upper reaches of the Missouri. And thirdly, the Biological Opinion and the lack of good science and inability to document any real world benefits to the three endangered species.

As a member of the Inland Waterway User Board, among other things we have been briefed over the last two years on the progress of this study right here. I've also been briefed quite often and seen decisions made based on economic benefits on the Ohio River, for instance, where a second 1200 foot lock for a lock and dam system that already has a 1200 foot lock is justified on the basis of the economic loss if the existing lock fails for a few weeks. If the lower Mississippi River fails below Cairo due to reduced flows from the Missouri River,

Nav 59
Miss 4, 25

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it will not only shut down the Ohio but the upper Miss, the Illinois, and, of course, the Missouri. The short-term failure could cost billions of dollars for delayed shipments, reduced capacity and the alternative transportation costs.

Secondly, I question some of the recreational benefits that to me are kind of a ghost number because a boater or a fisherman cannot -- just because he can't fish in the Missouri River reservoirs, he's not going to drive to Kansas or to New Mexico, he's going to find another stream or another lake somewhere near. His purchases of bait, gasoline, food, whatever, will still be used in that area.

Rec 9,19,27

Thirdly, the Biological Opinion, I don't believe the Biological Opinion shows good science. I don't think it reflects the true will and spirit of the Endangered Species Act. As a personal story, my grandfather was a U.S. Fish and Wildlife warden in Arkansas in the '50s and '60s. When I was ten-years-old I watched him threaten to pistol-whip someone who had a couple of wrong sized shotgun shells in his pickup truck. I think that's what the Fish and Wildlife Service is doing to the Corps and to commercial navigation right now. It wasn't right

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in '65 and it's not right now. Thank you.

COLONEL FASTABEND: Thank you, Mr. Daily.

MR. MOORE: Susan Gustafson.

SUSAN GUSTAFSON: My name is Susan Gustafson. As the Vice-President of Conservation, I'm representing the Board of Directors and 2200 members of the St. Louis Audubon Society. We are the local chapter of the National Audubon Society whose mission is to conserve and restore natural ecosystems focusing on birds, other wildlife and their habitats for the benefit of humanity and the earth's biological diversity.

There are three key words in that Mission Statement, restore natural ecosystems. If you've had the opportunity to see pictures of the Missouri River basin prior to 1933 when the Corps was first authorized to build the first of six dams on the Missouri River, you could appreciate the vastness and the power of the river playing its natural role in flowing and ebbing across the floodplain and facilitating the ecological role provided by wetlands and riparian habitat. Compare that to the current narrow channels artificially dug and controlled by levees, dikes and dam operations. Well, the dam operations can be managed to help restore some

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1 semblance of natural flows. While we were
2 disappointed that the U.S. Fish and Wildlife
3 Service's Biological Opinion per se was not included
4 as an alternative, we were pleased to see the four of
5 the six alternatives include flow changes out of
6 Gavins Point.
7 The flexible flow alternative, or what we
8 call GP2021, is the only option now on the table that
9 fully captures the recommendations of the Fish and
10 Wildlife Service. It would give the Corps the
11 authority and flexibility to prevent species
12 extinction and support recreation and tourism without
13 unduly burdening other uses of the river. The
14 recommendations of Fish and Wildlife Service are a
15 modest way to help fish and wildlife without
16 disrupting traditional uses of the river. The Corps'
17 own analysis shows we can still provide flood
18 control, hydropower, support for Missouri River
19 navigation, increase support for Mississippi River
20 navigation, and protect floodplain farmers. The
21 GP2021 alternative will give the Corps the ability to
22 respond to biological monitoring, water conditions
23 and other factors in an adaptive management approach
24 to Missouri dam operations. Without flow changes on
25 the river more species will likely be listed as

EnSp 8,3

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1 threatened or endangered.
2 As a biologist and a Missourian it greatly
3 saddens me to hear one of our U.S. Senator's
4 flippancy toward wildlife species. The end result of
5 biodiversity, and it's not just the three species
6 everyone is talking about. Those species serve as
7 indicators species of the health of the system as a
8 whole and that health will in turn effect us as
9 humans utilizing the river.
10 The overwhelming body of scientific
11 evidence, and I repeat scientific evidence, is not a
12 scheme or a poor excuse or shoddy science as some of
13 the nonscientists or biologists in the room have
14 stated, but the overwhelming body of this scientific
15 evidence points to the need for both habitat
16 restoration and flow changes to help fish and
17 wildlife survive and us as humans in benefiting from
18 the river.
19 Thank you for listening to our comments.
20 COLONEL FASTABEND: Thank you,
21 Ms. Gustafson.
22 MR. MOORE: Brent Hoerr.
23 MR. HOERR: Thank you, Colonel, for the
24 opportunity to be here. Brent Hoerr, and I'm here
25 representing the Marion County Drainage District. We

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recommend that the Master Water Control Manual do not be changed. The benefits that are outlined in the Water Control Manual are flood control, navigation, irrigation, hydropower, water supply, water quality, recreation, fish and wildlife. These benefits are not equal and they do not have the same response for each one, and I just want to go on the record of saying that each of these benefits have different needs and concerns and they're not equal in the amount of resources that they need.

Other 7

Also speaking for stakeholders along the river, there are those of us who live along the river. We feel we need a larger stake in what is being done and planned along the river. An example, we have been working on inundation maps and under your calculations you say that flood damage starts when the water gets to the flood control -- or flood stage. Our levee district, when the water gets to flood stage, 86 percent of the land would be under water if it wasn't for the levees. There have been changes over the years. That is what it is today. It wasn't that way when we started our district. So the stakeholders need to have a greater stake who are actual stakeholders. There are those stakeholders that are in the process that represent interests away

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from the river. They need -- I'm saying these are not equal either. There are those of us that live there, work there, I feel that these stakeholders need to have a greater say in what goes on on our river. Thank you.

COLONEL FASTABEND: Thank you, Mr. Hoerr.

MR. MOORE: Richard Stegmann.

AUDIENCE: He left.

MR. MOORE: Norman Hoerr.

NORMAN HOERR: I'm a cousin.

COLONEL FASTABEND: I was wondering.

NORMAN HOERR: I figured. I'm Norman Hoerr. I'm a Director of the Upper Mississippi, Illinois, Missouri River's Association. I'm also Chairman of Fabius River Drainage District just west of Quincy, Illinois, 20 miles north of Hannibal. We drove down here knowing that it's an important issue that you are all addressing right now.

Speaking for the two organizations I just mentioned, I want to say that I agree with everything that my Congressman Kenny Hulshof said. If you review his statements, you have my opinion. If you review what my Senator Bond said, you have my opinion. If you review Charlie Kruse's statements, you have my opinion, and thank you for your time.

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COLONEL FASTABEND: Thank you, Mr. Hoerr.

MR. MOORE: Ellery Hawkins.

ELLERY HAWKINS: Good evening, Colonel. My name is Ellery Hawkins. I come from Monroe County, Illinois and I'm representing the Monroe County Farm Bureau and also my own family farm.

You wonder why I would come from Monroe County, Illinois, and express opinion on this subject is because almost 50 percent of our county lays in the Mississippi River floodplain. Some have said tonight that changing the Flood Control Plan would not -- would only have a negligible rise. Sir, we cannot take an inch rise sometimes because when it raises too high we shut our locks, interior drainage stops and we flood.

FC 8
IntD 11

Also I can represent the Gateway FS local co-op who has two river terminals, one on Kaskaskia and one on the Mississippi. We cannot take low flood -- low water in the summer because it would be a detriment to our barging grain. It would be very detrimental to our farmers.

Miss 4, 25

Now to my own personal views as a family farmer in a floodplain. My son is just starting farming with me, he's 21-years-old. He's starting --

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he's going to be able to farm some of his great grandfather's land he farmed in the floodplain. I ask you not to change the flood control position as it is today. Don't take away, I beg you not to take away my son's right to farm in the floodplain because it is very good place to farm. It was also a place where our ancestors who over a thousand years ago farmed, had a great civilization in our area, the American-Indian, and they knew it was good land. Please protect it. I thank you.

FC 6, 8

COLONEL FASTABEND: Thank you, Mr. Hawkins.

MR. MOORE: Jayne Glosemeyer.

JAYNE GLOSEMEYER: Good evening. I'm Jayne Glosemeyer and I'm an agricultural producer in Warren County, Missouri, and my family farms 700 acres in the Missouri River bottoms. I am here tonight though representing the Missouri Corn Growers Association as I serve as one of their State Board Directors and our organization represents the corn growers in the State of Missouri.

MCGA will support the Current Water Control Plan because it is the only feasible alternative presented by the Corps of Engineers. All the other alternatives that are being presented would

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be absolutely devastating for agriculture.

We are opposed to higher reservoir levels in the upper basin lakes. Increased reservoir levels reduce the water available and flood control abilities to the lower basin. Managing the Missouri River flow based on the wants of upstream recreation goes against the original intent of Congress for multiple uses, including flood control and navigation. We are also adamantly opposed to what is referred to as the spring rise. Increasing water releases would flood or decrease drainage on thousands of acres in the Missouri River bottoms. The Corps and the Fish and Wildlife Service claim that they can curtail water releases from Gavins Point Damn if downstream flooding occurs. This cannot be true. Once the water is released it will take eight to eleven days to reach the mouth of the Missouri at St. Louis. If we are already experiencing high water levels from unexpected heavy rainfalls this proposed controlled flood would turn minimal flooding into major devastating flood damaging many farms and businesses that lay in the floodplain. These higher water tables create interior drainage problems that could delay spring planting even if major flooding does not occur.

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Rec 16, 21
IntD 8

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There are approximately 10,000 acres in our farming community where I live and at least one-third of those acres would be affected by poor interior drainage associated with high spring river stage.

It is also proposed that these increased spring flows would be offset in late summer by a split navigation season. During July through September water releases would fall below levels needed to maintain navigation. This would end navigation on the Missouri River. As you know, barges are a low cost transportation alternative for agriculture commodities and input. Barge transportation places competitive pressure on regional rail rates. Railroads can only raise rates to the point where they would start to push traffic onto alternative modes of transportation. For example, the barge system.

It has been demonstrated numerous times that in areas throughout the country that do not have access to barge transportation, rail rates are higher. In their analysis the Corps estimates that barge competition reduce rail rates in the Missouri basin by up two hundred million dollars annually. The importance of barge competition is further heightened as the rail industry continues to

Nav 12, 8

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consolidate.

The Missouri River is also a major source of water for the Mississippi River. During the drought of 1988 Missouri River discharges accounted for 63 percent of the water flowing past St. Louis from July through October. If planned flow reductions by the Corps would coincide with another summer drought, navigation on the upper Mississippi would be uninterrupted, costing the nation's farmers and industries millions of dollars a day.

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We also have concerns about what the Corps calls Adaptive Management. Through this proposed Adaptive Management, the Corps would be given considerable power to make flow release adjustments. These adjustments would be made primarily through consideration of one interest, the endangered species. If it is determined by the government agencies that for the sake of the species it is needed, the highest spring rise and the lowest summer flows could be implemented. We cannot assume that any other alternative would be proposed and accepted by the Fish and Wildlife Service. They have single mindedly always proposed a spring rise and split navigation season as the only alternative that would benefit the species. They have not proposed any

Other 3, 10
EnSp 12

other reasonable and prudent alternative.

MCGA is concerned that Adaptive Management will result in the loss of the public's ability to be involved in the decisions involving flow management for the Missouri River. It does not follow the law that is provided by the National Environmental Protection Act that allows for public input. Through Adaptive Management the Corps assumes power not given to it by Congress. Congress did not intend for the Corps to assume the power to implement any changes they feel are necessary or want to try as an experiment.

In summary, a spring rise is unwarranted and unscientific. It threatens farms and towns with increased risks of flooding and financial losses through reduced internal drainage. The reduced summer flows would end navigation on the Missouri and threaten barge traffic on the Mississippi River. MCGA believes there are other non-flow alternatives to be found but this will not happen if our government agencies remain narrow-minded and focus their concerns only on the wildlife use of the river. It is time we demand a plan that will consider not only the wildlife but also those affected by the river and the needs that are met by its use.

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Thus, MCGA supports the Current Water Control Plan. We recommend to the Corps keep the water plan now in operation.

Thank you for allowing me to share my concerns.

COLONEL FASTABEND: Thank you, Ms. Glosemeyer.

MR. MOORE: Delwin Johnson.

AUDIENCE: Not here.

MR. MOORE: Kenneth Hartman.

KENNETH HARTMAN: Good evening, Colonel. I thank you for letting me speak tonight. My name is Kenneth Hartman, Jr., and I am a member of the Illinois Corn Growers Association and also a resident of Monroe County, Illinois.

I'm talking to you tonight because we have concerns with the navigation of the Missouri River and the Illinois and the Mississippi because all of these -- other than -- including the Illinois and the Mississippi River navigation concerns are because of 60 percent of the water that flows south of St. Louis comes from the Missouri River. So by lowering the summer flow of the Missouri River it would also cause navigation problems on the other two rivers which would be a direct impact to the barge traffic which

Miss 4
Nav 59

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would basically raise the cost of Illinois Corn Growers' cost of barging grain on these rivers, so we have this concern.

The other concern we have is the spring rise. From St. Louis south to Cairo there are many farmers along there that do have farm ground that does go under water with these rises, even though it may be only a few feet it is detrimental to these areas. Thank you.

FC 8

COLONEL FASTABEND: Thank you, Mr. Hartman.

MR. MOORE: Bill Lowry?

AUDIENCE: Not here.

MR. MOORE: Larry Dowdy.

LARRY DOWDY: Good evening. My name is Larry D. Dowdy. I'm Executive Vice-President of the Little River Drainage District headquartered in Cape Girardeau, Missouri. Our District is the largest drainage and Levee District of its kind in the nation. We are involved in the moving of surface runoff of over two million acres of farmland and upland runoff each year.

We are downstream some 100 miles from St. Louis but the areas within our system are affected adversely and directly with any flooding

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that occurs on the Mississippi River at Cape Girardeau, Missouri. In 1993 if it had not been for our District our levee system and other features within our District from the Mississippi River would have flowed through the delta of the Bootheel of Missouri for 150 consecutive days beginning in April and going through most of September. Our levee system was never in any danger of breaching, but additional waters would have continued to put pressure on an already saturated levee which is not desirable.

FC 8, 20

Downstream of that levee is livelihood of more than 3,000 private landowners who are farmers in parts of seven counties. The safety and welfare of those people and many others is dependent upon our levee system working. We object to any plans that would cause our levees to be jeopardized in any way. Owe citizens' welfare, safety and the investments that they have already made in our District and up and down the Mississippi River and the Missouri River are far more important than the least tern, pallid sturgeon or piping plover.

We remind you and those who advocate making any changes to the reservoirs and the improvements which have been made on the Mississippi

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River and on the Missouri River were authorized by Congress based upon the benefits of flood control, drainage and navigation. The environmentalists, the conservationists and other such entities have reaped many benefits from the construction of those reservoirs and from the improvements the U.S. Army Corps of Engineers have made on those two rivers. We do not want to circumvent what Congress has authorized and justified to the taxpayers of this nation.

Other 7, 12

We are at a point in our nation that we must be exploring every possible means of reducing our dependency upon the foreign oil markets. We need to utilize anything and any mode of transportation which is more economical than our highways. Water borne commerce and transportation is far more economical for moving goods throughout the heartland of our nation. It is much more environmentally acceptable than any emissions that come from our trucking history and it is the safest means of transportation we have.

Nav 23, 72
HPower 22

We need to look to improve our waterway infrastructure and not be looking for ways to discourage development of those assets. We need to improve, grow and construct more hydroelectric plants

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on the rivers, not less. The people who are advocating these changes for the most part do not live here in this valley. They do not make their living here, they do not have the investments here, yet they have caused at least three series of Hearings on this same issue over the past few years, which is asinine. We continually are wasting the taxpayers money by continually studying these issues, holding these Hearings, striving to find a plan to benefit the least tern, the pallid sturgeon and the piping plover. We need to be better stewards of our taxpayers than this.

Other 7, 275

The last Hearing we attended on this issue we learned throughout the Missouri and Mississippi River Valleys that few if any individuals rose to speak in favor of the proposed changes. Our current two Senators, our former Senator, our former Governors, our current Governor, all of our congressional people, even parts of the Missouri Department of Conservation, the Missouri Department of Natural Resources have told the Corps this plan is not acceptable and we do not need to make any changes. It is time the Corps of Engineers listen to those people who are affected directly the most.

The information that is bandied about by

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the U.S. Fish and Wildlife Service has no scientific basis and is highly flawed. In my District's dealings with this agency we have found them to be an organization that speaks without any validity to the data they put out and most of their information and statements are salted with prefixes such as "this may happen", "this could happen", "this might happen." They never say unequivocally, "this will happen."

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Those groups which support them such as the Sierra Club and other such organizations are based outside the area in question and have no vested interest in the area. We are thankful that the U.S. Fish and Wildlife Service, the Sierra Club and other like agencies did not exist at the time our forefathers developed the country. Had they existed we would still be a third world country and not the leader of the entire world as we are today.

We believe it's time to quit holding these Hearings. It is time to quit studying changes to the Missouri Master Water Control Plan. We believe it is time to tell the U.S. Fish and Wildlife Service and any others that are advocating these changes that they are not going to be made and that we're going to continue to operate the Missouri River and Mississippi River in the manner that Congress

Other 7, 12

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authorized and approved.

In case you don't know which plan I support, it is the one currently in place. And as a sideline, Colonel Krueger is a good friend of mine and we want you to recommend him for a star whether you get one or not.

COLONEL FASTABEND: Thank you, Mr. Dowdy. That's not going to get Dan out of listening to the Hearings.

MR. MOORE: Clarence Trachsel.

CLARENCE TRACHSEL: My name is Clarence Trachsel, close enough. I'm here representing the Reveaux Levee District and the Capital View Levee District. Both of those are located in Calloway County and so I'm here representing several farmers who are trying to make a living by farming the river bottom. And just for the record here, we have opposed any increase in the spring rise of the river.

One thing I would like to say, in your study you made the assumptions that you'll never release water when there is a lot of inflow downstream and that is a flawed assumption. It takes about 11 days from what I understand for water to flow from Gavins Point to near Jefferson City, and in our Levee District there has been many times when we

FC 8

have been one inch of water away from having a flood on our farmland because it just gets down to where you're within the last inch. So for you to tell me that you believe that you can release three or four feet of water at Gavins Point and control the impact to one inch near Jefferson City, I do not believe. So I would like to see you go back and redo your study with the economic impact with having the percentage of floods included.

The other thing I would like to say is that I've got an example. Congressman Hulshof stated that on 8, June, this year at Hermann they had a 16-foot rise in seven days, and on the 8th of June it was near flood stage there but their levees were high enough. The Capital View Levee District, we were within four inches of losing our crops. Had we done that we would have some farmers going from a meager income to a negative income, and so based on that we cannot support any increase in the spring rise.

FC 8

If you really want to help us, do something to decrease the spring rise. That's what we would like. And by the way, if you do something to increase the spring rise, I think it would only be fair that you go all downstream and raise everyone's levee three to four feet to make up for the

FC 32

1 possibility you'll make a mistake. Thank you very
2 much.
3 COLONEL FASTABEND: Thank you,
4 Mr. Trachsel.
5 MR. MOORE: Diane Albright.
6 AUDIENCE: She left.
7 MR. MOORE: Randy Asbury.
8 RANDY ASBURY: Good evening, Colonel. My
9 name is Randy Asbury. I originally came to testify
10 on behalf of the Coalition to Protect the Missouri
11 River. In lieu of that tonight I would like to burn
12 my five minutes by testifying for myself. I would
13 like to submit my Coalition comments in writing,
14 though.
15 Would Don Huffman stand up? I would like
16 everybody to look at this fellow here. He's a friend
17 of mine. I've been working on this issue for only a
18 few months and I have attempted in those few months
19 to become educated by the issue and to present, on
20 behalf of those we represent and myself, testimony
21 that would be of integrity that has been put together
22 with care, that has been put together on a basis that
23 is what we would truly believe. I asked Don to stand
24 up for the only reason that a few moments ago in
25 testimony he was stated as being nonexistent, in that

1 navigation is nonexistent. Now, if that's the case,
2 the testimony that that nonexistent man gave earlier
3 would be nonexistent for you over here. Therefore,
4 it meant nothing. I have to admit that aggravated
5 me, and for those who work with me they know I don't
6 get aggravated very easily. I only bring this
7 tonight because, folks, this is a very simple issue.
8 People; animals. I serve the God of the Bible. You
9 don't have to go in the Bible but two or three pages
10 to find that animals fall on the lower priority scale
11 than does man. We have stated in all of our
12 testimony that we believe that there are needs of
13 species and that they should be addressed. Yet at
14 the same time I continue to come to these Hearings
15 and hear statements such as what was made by this
16 young lady over here earlier, and I spoke to her and
17 I mentioned to her that I respect her opinion, and I
18 do. But folks, where have we come in our county to
19 stand here today after twelve years of discussion to
20 concur that potentially an animal is superior to man.
21 I think if that's what the outcome of this Hearing
22 and this process concludes, we've come to a point in
23 our society where we have missed a very important
24 aspect of our society, and that is that we are here
25 to work, we're here to be productive, we're here to

serve, we're here to be good stewards of what God has blessed us with, and I believe that we should do that. But at the same time we should not look down upon those who are attempting to make their livelihood in such a way as what Don Huffman is or what Roger Blaske is. We shouldn't look down upon a Chad Smith with American Rivers for his point of view, and certainly I don't. I respect that.

But folks, let's bring this down to a very simple context. Let's bring this down to where it really needs to be. What is priority here? What is priority? Is it a fish? Is it a bird? Is it an alligator? Is it a snail? Is it man? I don't begrudge someone for having the interest of animals. I was born and raised on a farm and certainly love animals. I consider myself a conservationist, I consider myself an environmentalist. But, you know, somewhere along the line there has got to be common sense and balance in everything, and I would hope that through the course of these proceedings that that's where we will land when that is all said and done. I would also hope that in the future that as people address situations that they would attempt to do it in such a way that there would be no disrespect given towards those who are truly out there working

and investing and attempting to be productive in a way that is very beneficial to the United States.

My testimony tonight, of course, again is on my behalf as an individual, not on behalf of the Coalition, and I state that very clearly and want that to be on the record. But I do have to say that I appreciate the fact that we have this opportunity being here in the United States and that we can stand up and present our comments. But I would also like to stress the importance of let's keep in mind what we're looking at here. Let's keep in mind what this great country was built on. Let's keep in mind where we're going with these proceedings. And let's hope that when it's all said and done that common sense and balance seize the day and are appropriately considered for future implementation or whatever would come out of this river issue.

Other 7, 12

Again, we believe and I personally believe that species need to be addressed. But in that, I think it's also important that we have to address those individuals whose livelihoods, whose families, whose investment are such that they depend upon them each day and that they are as important as that of a pallid sturgeon, a plover or a tern.

Thank you for the opportunity to speak my

words tonight.

COLONEL FASTABEND: Thank you, Mr. Asbury.

MR. MOORE: Marvin Meyer.

MARVIN MEYER: Colonel Fastabend, before I get into my prepared remarks, I would like say that I'm thankful that I live in this country. A country that has a Constitution and a Bill of Rights. Among these Rights are the freedom of speech and the freedom of assembly which is what we're doing here today. It also means that we have the responsibility to be truthful, courteous, civil and a willingness to listen and respect the other person's ideas, concerns and needs, and my statement is going to be just a little bit different than others. I won't quote any figures, statistics or anything. I'm opposed to this spring rise. My name is Marvin Meyer. I'm a retired farmer from the Black Walnut, Portage Des Sioux area of St. Charles County, Missouri, which is about fifteen miles upstream from the confluence of the Missouri River with the Mississippi River. I've been a farmer all of my life. My daughter and her husband own a farm now. It has been a good, hard, but good honest and satisfying life. My farms are more fertile and productive today than they were in Lewis & Clark's time. It was being cultivated and been

surveyed before their journey. It was settled by the Payne and Fallous (phonetic) families in the 1700s. As far as I know, most of my ancestors were farmers just as most of my relatives today still are, and there are three of them in this room today. Bob and Norman, stand up. Let them see that there are really people here. Okay.

We were and still are good stewards of the soil. You take care of what takes care of you. We were concerned about and protected the environment to the best of our abilities long before the words environment or conservation were ever even invented. I believe that some of the changes to the Missouri River have not been the best but a spring rise will only create more problems. I call it planned flooding. The Corps of Engineers were wrong when they say a spring rise will cause little increase in flood frequency or damages. Any time you inject extra water into a river during prime flood season without chance of recall for greater protection, you increase flood damages. It takes ten or eleven days for a release from Gavins Point Dam in South Dakota to reach St. Charles, Missouri. If there are huge rains in the lower Missouri Water Shed, especially from Kansas City to the mouth of the Missouri, there

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is no question that the probability of flooding will be increased. The Corps either doesn't know the facts, is ignoring them or is trying to appease other groups. In the defense of the Corps, neither they nor Fish or Wildlife can do anything without the approval of Congress. It is Congress that sets public policy. It is Congress that provides funding. But who is Congress? It's us. We elect them. They pass the laws. Bureaucrats write the rules and that is the law unless it is overturned by the courts. Congress seldom reviews the rules to see that they conform to the intent of the law. Because we the farmers in the valley are so few, we are seldom heard.

I do a lot of reading, Colonel. So on 7-10-01, July the 10th in the Wall Street Journal there was an article. In April, 2001, the U.S. Federal Court held the taking of water for endangered fish in California constituted a clear government taking of property and that farmers must be compensated. The Fifth Amendment to the Constitution is intended to bar government from forcing some people alone to bear public burdens which in all fairness and justice should be borne by the public as a whole. I call this a regulatory taking of rights.

Legal 5

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I believe that the spring rise and flooding that will surely follow is the same principle.

It is a folly to think that we can recreate the conditions of Lewis & Clark's time. It cannot, will not and should not be done. The memories of the past are always better than the reality. I did not cause the problems but I'm one of those who will be wronged by the spring rise, which I call planned flooding, and will have to pay the consequences. It is my firm belief that this will lead to the eventual elimination of most agriculture from the river valley. I am certain that agriculture will be damaged. There will be more frequent and disastrous floods. It will mean scouring from sand deposits. It will mean more blow holes. It will mean more farmers going broke from levee rebuilding expenses. It will mean that some day the Corps will say that we will not help rebuild your levees because the costs exceed the benefits.

FC 8

Fish and Wildlife cannot be certain that their ideas will work. What will their next demands be? Will they then have exactly what they want at absolutely no cost to them? Neither the Corps or the Fish and Wildlife have the emotional or financial interest in the farms that I have. Our soils and

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farmers are a resource that we cannot afford to discard.

I would be proud if my grandsons, Sean and Mark, would like to stay on the farm but I absolutely will not encourage them to do so. I will discourage them because of the constant erosion of our rights and ability for farmers to make a decent, honest living. Another wrong will not make a right. Will my family become an endangered species or will we receive the same rights and concerns that birds and fish get? Is this what we want? Or a better answer, I think we're more important. Thank you, Colonel.

Other 7, 12

COLONEL FASTABEND: Thank you, Mr. Meyer.

MR. MOORE: Wilmer Erfling.

WILMER ERFLING: Good evening, Colonel. Thank you for the opportunity. My name is Wilmer Erfling and I live near Hermann, Missouri. I'm in favor of the Current Water Control Plan without adaptive management. I wish to address the following issues. Spring rise and how it affects the interior drainage and higher ground water. Reduced summer flows and what it does to loss of navigation. Adaptive management, the balance of it -- the lack of balanced input. Bank stabilization and habitat restoration.

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I was born and raised with river bottom farming. My father-in-law, who is nearly 80-years-old, actually cleared some of this land with mules and grubbing hogs. He has farmed for over 65 years and is still actively involved. We are very familiar with the Missouri River and its ecosystem. A spring rise causes flooding and high flows which eliminate internal drainage, cause high ground water and drown crops. The proposed spring rise makes flood control impossible. Rainfalls and inflows from tributaries below the Mainstem, including the Osage River, make it impossible to properly manage releases from the Mainstem dams. Instead of spring rises this area experiences floods. This past spring more than twenty percent of the spring corn crop was lost. Even though the levees were not over topped. This occurred because the lack of effective coordination between the Mainstem and the Osage Reservoir management.

FC 8
IntD 8
GW 7

If adaptive management is to be considered, flood control must be part of the decision-making process because of the high economic stakes. Unless all of the stakeholders are permitted to be involved in these decisions, all other areas of concerns will not be heard. Adaptive management is

Other 3, 10

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not an acceptable consideration because landowners, farmers, private businesses, navigation, municipalities, and the general citizenry do not have adequate opportunities for input. All of these groups have environmental concerns and they also have substantial economic concerns.

On my family's farm at mile 94 below Hermann, we have lost more than 35 acres of land, bottomland forest and a sand bar in approximately one-half mile of river due to high flows. This area was prime river habitat for many species. Due to improper management, dike notching and rock placement mandated by the Missouri Department of Conservation and so-called environmental experts, this land was lost to wildlife and to our family. The unproven benefits of the spring rise for endangered species would also have similar negative effects on other native species and their habitats.

EnSp 5

The Master Manual should include provisions for the enhancement of navigation and river terminals. I do not understand how the elimination or reduction of navigation on the Missouri River can even be responsibly considered at this time. The elimination of just one barge tow would put 900 tractor trailer trucks on an already

Nav 23

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overcrowded, deteriorating and unsafe highways. Shouldn't the Environmental Impact Statement be held accountable for damages and changes to air quality, safety and energy conservation?

Our family farm was settled in 1864 and we are the fifth generation of farmers who reside on it. There is a love and respect for land that is passed from generation to generation, along with the land. The American farmer must be the best conservationist, the most resourceful environmentalist and it is his livelihood and this country's heritage that he holds. The Historic Preservation Act of 1966 recognizes this when it included any farmstead of 50 years or more in its list of eligible sites. We are concerned this Environmental Impact Statement has not given significant attention to the protection of designated historical sites.

CR 4

No government has the right to purposefully plan for the destruction of the livelihood of a group of American citizens, or even one citizen. A purposeful destruction will take place under the revisions put forth in this Environmental Impact Statement. Thank you, very much.

COLONEL FASTABEND: Thank you,

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Mr. Erfling.

MR. MOORE: Jim Holsen.

JIM HOLSEN: My name is Jim Holsen. I'm a Past President of the St. Louis Audubon Society. I spoke to the Corps in a meeting similar to this in St. Louis in 1994. I remember ending my remarks with the observation that my wife had applied to the dashboard of her car a saying from a Chinese Fortune Cookie to the effect that you are heading in the right direction. I say that described how I felt about the Corps of Engineers. Now perhaps seven years later I think the Corps is still heading in the right direction but they have been diverted by officials in Washington in following the suggestions of the Fish and Wildlife Service. At the time of that earlier Hearing I had intended to come and argue that the Corps could provide both for environmental restoration of the river and for the traditional navigation and barge interests at the same time. As I thought through the alternatives it became clear to me that the two were not fully compatible. A spring rise and lower flows during the summer months do not fit with the demands of the barge industry but they are essential to the ecological restoration of the Missouri River.

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As residents of St. Louis, we frequently cross the Missouri River on the Boone Bridge or at St. Charles on the I-70 Bridge. We almost never see a tow with barges on the Missouri River; hardly ever. Even the Corps reports that the economic benefits of barge traffic are much less than those of other activities, such as recreation. And the economic benefits from recreation can only be enhanced by the ecological restoration of the river. I might add that a very high percentage of the tonnage reportedly carried on the river by the Corps -- excuse me, on the river is either rip-rap hauled by the Corps for its own flood control structures or it's sand dredged from the river bottom.

Nav 35, 6, 8, 23, 42, 4, 9, 34
Rec 6, 10

I want to add one other little thing here. If the Corps is going to continue to reach decisions through the cost benefit analysis method, then it must devise some way to include those real benefits such as wildlife and wildlife habitat that are difficult to quantify, and I think that's something that needs some work on.

Other 11

The alternatives that provide for a spring rise such as GP 2021 do not eliminate barge traffic but do restrict it during the summer months. But those are not peak months for moving commodities to

Nav 12, 39
Miss 4

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market and these alternatives actually promote barge traffic on the Mississippi by providing higher flows in the fall months, assisting navigation on the middle Mississippi between St. Louis and Cairo.

The St. Louis Audubon Society has endorsed GP 2021 Alternative, the alternative that most closely resembles the recommendation of the U.S. Fish and Wildlife Service. I'm speaking to second that recommendation. We have an unusual opportunity to repair some of the errors of earlier years, errors which most of us looked upon at the time as progress but we know better now.

EnSp 8

I say let us make the most of this opportunity. Thank you.

COLONEL FASTABEND: Thank you, Mr. Holsen.

MR. MOORE: Robert Sweany.

ROBERT SWEANY: Colonel, thank you. And I thank you for your comments earlier about our service men and women in harm's way this evening.

My father-in-law spoke earlier. My name is Robert Sweany. I live in Portage Des Sioux, Missouri. I farm the bottoms in northeast St. Charles County. I started farming in 1990. At that time I hoped I would make it through five years without a flood. That didn't quite work out. It

flooded in '93 and '95. Just after that I was elected to the Board of the Missouri Corn Growers, served there for three years. Also on the St. Charles County Flood Plain Vision Board, trying to look at ways to mitigate damages in the floodplain, ways to improve safety.

I've been to a lot of meetings in the last six, seven years on this subject. A couple years ago I attended a meeting where they were talking about the spring rise. At that time it would have happened, I think about three weeks earlier than what the current plan looks at. If that had happened, I not only would have flooded in '93 and '95, I absolutely would have flooded in '94. We had a lot of damage after the '93 flood, needless to say. The big holes were fixed. There was a lot of wave wash that didn't get fixed. We were out with roofing tin and tomato stakes trying to build a levee after some heavy rains in the Spring of '94. Luckily the river crested and fell the next day and the one time that my father-in-law in his experience saw the sandbags actually held. At that time if the spring rise had been in effect it would have pushed the crest about a week later about another foot higher and we would not have held.

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At this time, with the current spring rise we probably wouldn't have flooded that year but it sets the stage where since there is a ten-day delay from when the water is released to when it reaches us in St. Charles County, the weathermen I have seen have problems forecasting weather two days out, let alone ten days. It's a huge risk. I have seen the Corps come up with things that are better alternatives. Chute restoration, other things. Habitat restoration in some areas through buy-outs from willing sellers.

WRH 6

As part of the work we did on the Floodplain Vision Board, we looked at ways to mitigate damages. In our area when the water blows out the levees up around St. Charles, instead of going to the confluence, which is about, like Marvin said, fifteen miles down from my house, it cut straight across the bottom towards the town of Portage Des Sioux. In the middle of that area is the Burlington Northern Railroad tracks which provides coal to the U.E. Electric plant on the Mississippi River. Water backs up behind the railroad tracks, it acts as about a hundred year levee. Our levee, the last Corps setting said it was an eight-year occurrence levee. We don't have much of a levee

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along the river. Water backs up behind the tracks and washes out the tracks. There are pipelines that come from Wood River heading west, it exposes those pipelines. In '93 two pipelines were exposed. In '95, two pipelines were exposed. Fortunately they did not rupture and spill their product into the river.

Something needs to be done but I don't think it's a spring rise. I'm speaking in favor of the Current Water Control Plan and against the adaptive management unless there were changes to allow all stakeholders to have a say in what adaptations would be. Thank you, sir.

Other 3, 6, 10

COLONEL FASTABEND: Thank you, Mr. Sweany.

MR. MOORE: Robert Neff.

ROBERT NEFF: My name is Robert Neff and I am Manager of Coal Supply and Transportation for AmerenEnergy Fuels and Services Company. AmerenEnergy Fuels and Services is a subsidiary of Ameren Corporation which purchases coal, oil and gas for use at Ameren power plants.

Earlier this evening we heard from Paul Agathen, Ameren Senior Vice-President on the effects of lower river levels on the operation of Ameren's power plants. I'm here tonight to express concern

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about the negative impact reduced flows in the Missouri River would have on the Mississippi River navigation and how that will effect our ability to fuel our coal-fired power plants.

Ameren purchases thirty-two million tons of coal annually for electrical generation at nine coal-fired power plants. This coal moves by rail, barge and truck. In the past, three of our nine plants had facilities to receive coal by barge. Ameren recently invested millions of dollars to be able to receive coal by barge at two additional plants on the Mississippi River, The Sioux plant and the Rush Island plant. Also, the Meramec plant is being equipped with a rail transfer and barge loading facility to allow the movement of coal by barge from the Meramec to other Ameren plants. To accommodate these barge movements Ameren recently purchased 30 barges.

Nav 8, 60
MoPower 1
Miss 4

Considering the large volume of coal that Ameren moves every year, fuel transportation cost is one of our largest expenses. We have heard that movement by coal by barge is the most energy efficient and often the lowest cost method of transportation.

Ameren is constantly looking for ways to

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lower the cost of electricity to its customers and has continually reduced cost of coal transportation by initiating new options and sources of coal delivery. We knew that our recent construction of barge facilities at our three power plants would help keep transportation costs down and allow us to continue to offer competitive electricity prices to the region.

Our barge facilities provide us with an additional means to bring fuel into our plants that improves the overall reliability of our electrical generation. We understand that during periods of drought, Missouri River water accounts for up to 60 percent of Mississippi River flows between St. Louis and Cairo. At the same time the heat present during the summertime droughts places a great strain on the electric system, driving electricity demand and the need for coal even higher. However, if the Corps were to select one of the alternatives that further restricts Missouri River flows, our ability to deliver coal to our plants would be limited at a time when the coal is needed most.

In summary, I urge the Corps to act responsibly and refrain from selecting the Missouri River Management Plan that could hurt Mississippi

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River navigation.

Accordingly we support the Current Water Control Plan, as it is the only one of the six that would provide adequate flows for both the Missouri and Mississippi Rivers.

Thank you for allowing me to express my views this evening.

COLONEL FASTABEND: Thank you, Mr. Neff.

MR. MOORE: Cheryl Hammond.

CHERYL HAMMOND: My name is Cheryl Hammond. I'm on the Executive Committee of the Missouri Sierra Club. I live in Maryland Heights and this is one of the communities along the Missouri River and I see a lot of what is happening on the Missouri River because I live right along the river. Maryland Heights is home to Harrah's which is a large riverboat casino. In fact, it has the most revenue of any of the casinos in Missouri. Across the river is Station Casino, it's another large riverboat casino. Missouri authorized casino gambling on riverboats in 1992. I think it is safe to say that most voters imagined that there would be some paddle boats or something sort of looking like old Maverick TV shows. Well, in the reality these boats don't appear to be that way because they don't -- they

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don't cruise, and since they don't cruise I think that says something about the navigation on the Missouri. We don't -- we have navigation of barges but we don't have navigation of passenger boats, and I think people voted for these boats because they wanted a connection to the river and we feel a strong connection to the river, we want to have this connection, and I think even people who aren't really in favor of gambling wanted that connection to the river. Riverboat gambling has not only failed to provide a riverbase recreational experience, but has contributed to alienating us further from our river birthright.

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Harrah's Casino in Maryland Heights now requires new access to make it easier for patrons to travel to it. Harrah's tax revenues to the local government is funding the construction of a major new expressway across the floodplain to the casino. Also, as property owner in the Levee Drainage District, the casino is a significant contributor to the construction of a 500-year levee in place of the old agricultural levee. A new expressway through open farmland will be followed by a major office park built on green fields without the expense of redeveloping on brown fields. None of these

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developments takes into account all the other developments that are occurring in other cities and other communities along the Missouri which take an altogether significant flood risk no matter how high the levee, and communities with adequately high levees now are made at risk when they're neighboring communities build yet a higher levee.

We need to reconnect our people with the river. Those of us who live next to the Missouri, which was one of the great rivers in the world, are entitled to the experience of knowing that river. A trip across I-70 is the closest most residents of river cities, such as Maryland Heights, are likely to get to the river. Agriculture levees with rows of corn also cut off residents from understanding the river but those fields of corn do not close future options. Once buildings go in, buildings stay and the prospect for other uses of the floodplain is lost.

The future floodplain should include restored wetlands to produce habitat for migrating birds and other wildlife. It should include trails and outdoor recreational opportunities which open up the river to people. It can include farmland to grow food crops. It should not include more office parks

or other commercial development.

I urge you to recognize that a comprehensive plan should including management of flows but also should oppose further structures in the floodplain. The comprehensive plan must specify that all permits take a comprehensive view of the effects of individual levees and make sure that they are all considered. Thank you.

COLONEL FASTABEND: Thank you, Ms. Hammond.

MR. MOORE: A.J. Guthrie.

A.J. GUTHRIE: My name is A.J. Guthrie. I'm Distribution Manager for LaFarge North America and I appreciate the opportunity to comment on this. I also appreciate your comments earlier, putting us into perspective with what other events going on in the world this evening.

LaFarge North America is major shipper of bulk commodities on the United States Inland Waterway System with cement manufacturing plants and terminals located on the Missouri, Mississippi, Ohio Rivers and other inland waterways. LaFarge is a worldwide leader in construction materials and is strongly committed to providing high quality products and safeguarding our environment. Without reliable barge

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transportation on the Inland River System, LaFarge will realize substantial increases in transportation costs.

LaFarge North America operates a cement manufacturing facility at Sugar Creek, Missouri. From this plant cement has been barged upstream to Omaha for almost 36 years. The river has been a vital supply line for us. LaFarge is currently increasing the production capacity of our Sugar Creek plant from approximately five hundred thousand tons annually to over nine hundred thousand tons in order to meet the strong demand for Portland cement in the Kansas City and Omaha markets. We need to get our products to Omaha and river transportation is the best way to do it.

Nav 79

Our manufacturing process also requires a variety of bulk materials and fuel. These materials are transported by barge in an efficient and environmentally friendly manner. River transit also serves to keep transportation rates competitive and that is good for everybody.

LaFarge would like to use barge transportation for as much of our needs as possible. As we continue to grow our business our movement of bulk materials on the Missouri River could

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potentially be five hundred thousand tons per year or more. The management of the river determines reliability and operating costs. The problem is the specialized barges and materials handling equipment for transporting and handling these products are very costly and continued investment requires justification. We have two highly specialized cement barges that were specifically designed for operation on the Missouri River. Replacement costs for these barges would be approximately one and a half million dollars each. It is difficult if not impossible to justify and to commit capital to a supply chain that has a future of dubious or decreasing reliability.

Shore site facilities and equipment are expensive as well. Those who argue that the volume of Missouri River commerce does not justify the commitment to river management plan that maintains reliable navigation season should understand that their conclusions strains investment and an efficient transportation helping to assure that volumes will remain low.

The spring rise and low summer releases on the Missouri River as proposed in the RDEIS will result in the loss of economically preferred environmentally friendly motive of bulk commodity

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transportation. LaFarge North America supports the Current Water Control Plan for the operation of the Missouri River. Thank you.

COLONEL FASTABEND: Thank you, Mr. Guthrie.

MR. MOORE: Heather Hampton+Knodle.

HEATHER HAMPTON+KNODLE: Good evening. Finally we meet. Now some of this might seem like a review but hang with me. Okay? I think we can gel some pieces together.

Thank you for the opportunity to comment and our organization, which is the Upper Mississippi, Illinois and Missouri Rivers Association had several members here this evening, many of them farmers, many of them in business, many of them representing communities that rely on the rivers and their productive use, their productive valleys and sometimes protection from the rivers ravages for their livelihoods and their ways of life.

Several aspects of the proposed alternatives for managing the Missouri River concern our members. Topping the list, any proposed spring rise would lessen flood protection levels on the Missouri and the mid-Mississippi. You're going to hear this recurring theme, large geographic area

FC 8
ErSd 18

besides just the lower Missouri. Increasing spring releases from Gavins Point reservoir will increase the river state, thereby lessening the amount of existing flood protection. Common sense. Upon their release from Gavins Point millions of gallons of water will travel more than ten days before they reach St. Louis. A large rainfall at any point along the lower Missouri could result in the river overtopping the levees. However, the effects of flooding can be experienced without a levee or flood wall overtopping. Specifically, higher waters lead to increased seepage that creates higher groundwater tables. In agricultural areas this increase in groundwater and resulting delays in planting or harvesting could cost farmers half their yield. Well, Wilmer, you mentioned twenty percent just this year in planting; that didn't even talk about harvest. The window for planting in particular is narrowly framed by optimum soil temperature and moisture as well as anticipated weather conditions. If higher groundwater prevents farmers from planting at the otherwise optimum time then the government should compensate farmers for their losses.

We oppose greater variation in flow rates because we anticipate it will cause riverbanks to

erode more quickly. Fluctuating heights of the water, duration of the stage and rates of flow will scour the banks. The increased erosion will result in more sediment to the river and in many cases less levee to protect the valley.

Changes to Missouri River flows impact a large geographic area. Communities, individuals and businesses that are located in mid-Mississippi Valley immediately north of St. Louis and south, I said north of St. Louis, I won't show you a map, I think you can figure that one out, and south between St. Louis and Cairo, Illinois, closely monitor the weather patterns across the lower Missouri because its flows directly impact their level of flood protection and navigation service levels. And one thing to just drive home here, we've heard it a couple of times, but that navigation level, summer flows are critical. They actually need move draft at that time to carry heavier barges to make up for lost freight costs. Is that right, Larry?

Nav 12

LARRY: Right.

MS. HEATHER HAMPTON+KNODLE: Okay. So that's the business side of that in a nutshell, and that seems to be a flaw in the economic balances that's printed in this really nice booklet which I

wish I would have had before tonight, but I'm winging it.

Increasing spring flows and low summer flows, especially in a drought year could severely limit navigation between Alton and Cairo, Illinois. This stretch of river is critical to commercial activity of the entire Midwest because of the locks at Lock and Dam 27, as well as locks to the north and realizing that much of the cargo that moves from the upper and mid-Mississippi is funneled to the world market through the Port of New Orleans.

Nav 59
Miss 4

Lowered summer flows would limit navigation on the Missouri River. And in the interest of time I'm going to skip to our final comment which this might be a little bit of new information, maybe, or putting it into a different context. One of our members' largest concerns is the precedent the decision-making process on this issue could set for other tributaries and situations outside of the river and its valley. The Corps of Engineers is mandated to maintain a navigation channel, to assist with flood protection and emergency readiness, and to manage reservoirs for adequate water to produce energy, as well as water supplies. The Corps also has a fairly new mandate of

Other 7, 9

managing environmental factors to preserve environmental quality and limit its degradation. As an agency, the Corps of Engineers has the technical capability and the congressional authorization to perform these functions. Yet, it appears the Corps is being held hostage by the U.S. Fish and Wildlife Service which threatens to open the Corps to lawsuit on endangered species. It wouldn't be the first time, but this time seems to be a show stopper.

EnSp 46,59

Last fall we viewed data compiled by biologists that revealed the Current Water Control Plan provides more shallow water and sandbar habitat than is said to be necessary for at least a couple of the species in question, that would be the endangered, not the threatened, than the flow changes being advocated by U.S. Fish and Wildlife.

Fish 14

In addition, the agency's, that would be U.S. Fish and Wildlife, recommendations center on flow changes and omit any mention of eliminating competing or predatory species. In colloquial terms I ask, "What's up with that?" This example indicates -- these examples indicate the U.S. Fish and Wildlife Service places habitat that would lead to growing numbers of the jeopardized species as a lower priority than gaining power to determine how the

river should be managed.

EnSp 1,48

Additional data also indicates that activities outside the main channel and, therefore, relatively independent of the flow rates and timing would provide an environment where the species' populations could grow.

In summary, we oppose any revisions specifically a spring rise and lowered summer flows that would negatively impact our members on the Missouri and Mississippi Rivers. Thank you, very much.

COLONEL FASTABEND: Thank you, Ms. Hampton+Knodle.

MR. MOORE: David Bonderer.

AUDIENCE: He left.

COLONEL FASTABEND: Already?

MR. MOORE: Ron Hardecke.

RON HARDECKE: My name is Ron Hardecke. I'm from Owensville, Missouri, I'm a farmer and I serve on the Board of Directors of Missouri Farm Bureau.

I want to ask the Corps of Engineers to continue to manage the Missouri River System for multiple uses as you have done so well for many years. That would be the Current Water Control Plan.

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The Corps has a long history of managing the public lands and working with private land owners and industry to manage our natural resources for multiple use, such as flood control which reduces property damage; reducing the soil erosion through stream bank stabilization; river transportation which provides alternatives to other transportation and reduced cost of transportation; hydropower which provides affordable energy; and as a side benefit providing recreational opportunities. These benefits have served all aspects of our society very well. I don't believe that the Congress intended for the Endangered Species act to put fish or birds above humans or our economic stability.

Other 7
EnSp 3
ErSd 18

We as a nation have always strived to better ourselves in the use of our natural resources. Now as we enter the new millennium we find that the U.S. Fish and Wildlife Service is trying to end this long history of success and progress for the sake of fish and birds with total disregard for the rest of the species living in the Missouri River floodplain, including the humans. We must manage our natural resources for multiple uses, including humans.

There is a lot of talk about returning the Missouri River to the way it was when in the days of

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Lewis & Clark, or even before. Most of us here wouldn't want to live in tepees or rely on hunting or fishing to eat. Today we have the luxury of doing these things as recreation, not as a means of survival. Recreation and tourism will only be viable industries as long as we have a strong economy which provides people the money and the free time to enjoy recreation. Multiple use serves us all, not just one special interest group. It is unconscionable that the U.S. Fish and Wildlife Service would ask the Corps of Engineers to use their knowledge of how the river works to direct the current and wash out dikes and levees causing soil erosion in the name of creating habitat, and in doing so destroying farmland and repairing corridor. This is at a time when the environmental community is blaming agriculture for the hypoxia in the gulf. You wouldn't think they would be creating more soil erosion. There seems to be a double standard here. It makes you question their motive.

EnSp 3

We have all seen and read the destruction of the environment and the economy in the decline river basin in Oregon this summer under the direction of the U.S. Fish and Wildlife Service. I wonder how many other species were damaged by those actions,

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besides the irreparable damage to the local economy. I would ask you not to allow that to happen in the Missouri River basin. Our nation can't afford any more experiments like that. In this time of crisis in our nation we need to keep our infrastructure of agriculture and transportation strong and move toward being more self-sufficient, not allow our nation to rely on others for food supply.

In closing, I ask you to continue to manage the natural resources of our nation which are under your jurisdiction for multiple uses as intended by Congress. Don't allow misguided special interest groups and the U.S. Fish and Wildlife Service to damage the infrastructure of our nation. Thank you.

COLONEL FASTABEND: Thank you, Mr. Hardecke.

MR. MOORE: Warren Stemme.

AUDIENCE: He left.

MR. MOORE: Kim Diamond.

KIM DIAMOND: Good evening, or almost good morning now. My name is Kim Diamond. I'm an attorney at the St. Louis Law Firm of Husch & Eppenberger and I'm here to provide comments on the behalf of Levee and Drainage Districts that we represent.

To give you some background, our law firm has represented Levee and Drainage Districts along the Missouri and Mississippi Rivers for over 50 years. Along the Missouri River the districts that we represent include Earth City Levee District; Tower Bends Levee District; Monarch-Chesterfield Levee District; Missouri Bottoms Levee District; Riverport; Tri-County Levee District and Sugar Creek Drainage District. We estimate that in the aggregate these districts protect approximately 70,000 acres of land along the Missouri River from flooding. In a November 9th issue of the Post Dispatch, the Post-Dispatch focused on the impact of the proposed changes to the Master Manual on farming. We would like to make clear that this is not just a farming issue, it's an urban issue as well. Representatives our clients and agricultural communities have appeared at Hearings earlier this month in Kansas City and Jefferson City, Missouri. We agree with and support theirs concerns with respect to the effect of the proposed manual revisions and agricultural communities. With their views already expressed, we will focus our comments on the impact of the proposed changes to the Master Manual in urban areas.

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Our concern is twofold. Our first concern is the increased risk of flooding from a spring rise. The magnitude of the potential damages in urban areas is such that a spring rise does not justify any increased risk of flooding. In light of this, none of the Gavins Point alternatives or options should be implemented.

FC 8

Our second concern relates to adaptive management. For reasons I will discuss later, we oppose adaptive management as a means of revising the Master Manual. We would like to make clear that we certainly support species habitat restoration and the goals of the U.S. Fish and Wildlife Service under the EPA as long as those goals do not endanger the welfare of people in areas affected by the changes.

Other 3, 10
EnSp 12,3,1

To discuss the risk of an impact from a spring rise, Levee Districts in urban areas along the Missouri River protect billions of dollars of property and are centers for tens and thousands of jobs. The Levee Districts in St. Louis County alone protect nearly 1000 businesses employing over 35,000 people. These districts also protect over three billion dollars worth of real and personal property. Land within urban Levee Districts provide strategic locations for manufacturing, distribution, retail and

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commercial industries, recreation facilities. These industries and facilities have an economic impact of over five billion dollars annually. Vital facilities are also protected from flooding, such as major municipal water and sewage treatment facilities, major interstate highways and the second busiest airport in the St. Louis region, Spirit of St. Louis Airport. A spring rise would have unpredictable results especially considering that the significant effects of weather conditions are for the most part unpredictable.

The risks posed to urban areas have not been adequately assessed. Further, any increased risk is unacceptable given the magnitude of potential damage. We do acknowledge that a risk of a flood may be minimal in light of the significant flood protection structures located in St. Louis County and in these urban levee areas, however in light of the magnitude of persons and properties being protected we believe that these issues are extremely important to urban areas.

Another proposal is the Master Manual Revision -- in this Master Manual Revision is adaptive management. While adaptive management provides more flexibility, it inappropriately limits

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public input in decisions about the Water Control Plan. To give you an example, we would compare adaptive management to dam management, and by dam, I mean DAM, not D-A-M-N. For instance, we have some clients who in 1986 saw the effects of the exercise of this type of management with the Bagnell Dam release. Several of our clients believe that this release was the specific cause of levee breaches in several locations.

So in conclusion, we cannot underestimate the potential impact on people and property located in urban flood protected areas. We believe that would be fooling ourselves if we think that there is scientific certainty that we can manage this risk without mishap. For this reason there should be no spring rise and the Gavins Point option should not be implemented. Further, we oppose adaptive management because it will improperly limit the public's input in decisions about revisions to the Master Manual. Thank you.

COLONEL FASTABEND: Thank you, Ms. Diamond.

MR. MOORE: Jack Norman.

JACK NORMAN: Good evening. My name is Jack Norman. I reside in Monroe County, Illinois,

which is some twenty miles from the Missouri but we're acquainted with big rivers. My county is bracketed by the Missouri and Kaskaskia. We have -- our principle industry is agriculture and we have numerous other business that are heavily involved in river transportation matters. In '93 one acre out of six in our county was under ten to 12 feet of water. With all the economic and personal damage that is involved with that, fortunately we were smart people to keep people out of the water at the right time; we didn't lose anybody.

I speak tonight, however, for the Kaskaskia group of the Sierra Club. My personal history is a long involvement with protection of river systems in this region from the Cuivre and the Illinois and the Missouri and the Meramec and the Kaskaskia all along the Mississippi in this region and the Sierra Club is concerned with the health of the communities in this area and of the ecosystems in this community which are together importantly with each other.

As long as humans have been acquainted with rivers, they've received the rivers many benefits. Among these have been the rivers nurturing of wildlife; their supply of drinking water and food;

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their inspiration and community focus; their use for transportation; their replenishing of soil and soil nutrients; their recreational uses; their services as territorial markers and its protective barriers; their cleansing actions; and their capacity to deliver useful energy. All of these benefits are received to this day, although the forms of most have changed between the ice ages and today. Not all of these benefits can be delivered without limits. At all times and places together choices among those benefits must be made pretty regularly. The choices should be made transparently and with accountability and be informed by a search for justice and for the viability of the rivers and their basins.

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Rivers and their watersheds have created each other and each continues to be needed to sustain the other. On the nations big rivers, as on others, separation from their watersheds and the river systems inhabitants should not be encouraged, promoted or allowed beyond that needed to provide essential human benefits not otherwise available. Our plans should recognize the rivers will and must reclaim their floodplains from time to time. We should expect to accommodate ourselves to the sustainability of the Missouri River system and its

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basin rather than the reverse, expecting the river to accept being bent to our every wish. We should guard against such manipulation of the river as would result in the degradation past its capacity to recover and continue to sustain us.

I expect to provide for your consideration additional comments in the spirit of these remarks on the substantive issues in the RDEIS. Thank you.

COLONEL FASTABEND: Thank you, Mr. Norman.

MR. MOORE: James Nyberg.

JAMES NYBERG: I'm James Nyberg. I live in Clayton, Missouri. I'm a member of Sierra Club and some other environmental organizations, but I'm speaking for myself.

On the subject of quality of life, I'm not looking to get any money from this river, it has some other values. A peaceful place to be out in the open, look at the wildlife, be at peace with the world. The other thing is I feel responsible for preserving whatever is left of our natural environment for others who follow us that we inherited and let's not make it any more degraded than we can avoid.

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My friends and I have canoed and camped on the Missouri River on numerous times and I realize

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that we have gotten ourselves into a lot of trouble by building levees, developing the floodplains, made the people behind the levees dependent on them and make the floods higher every time we build more levees and I realize we can't go back 200 years to where it was when Lewis & Clark were exploring the river but we can at least do some things to lessen the harm that we have done.

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On the subject of river navigation, we've canoed the Missouri River. In fact, just a couple weeks ago from the Gasconade River to New Haven a couple of weekends ago. We saw one tow pushing two barges in two days. We counted 32 railroad freight trains going along the riverbank before we got tired of counting them in one day. And on other trips we've had -- at other times of the year we've looked around to see what else was on the river and if we see one commercial barge a day it's a big number. And as somebody else already said we see sometimes more Corps of Engineer navigation traffic maintaining the wing dikes and the other things, than commercial traffic that we see around.

So the impression I have from the viewpoint of somebody in a canoe is there isn't much barge traffic. I don't know where it is, and I think

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the Corps could perhaps find out how economically valuable the barge traffic is by proposing that the entire cost to maintain the navigation channel would be paid by tolls by the barges and then let's see how competitive it is with the railroads and the other forms of transportation. I think that we can do without the navigation on the river at all.

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EnSp 28

The other subject is wetland and repairing habitat and we have an Environmental Endangered Species Act. We shouldn't be talking about whether or not to obey the law. If it's a bad law we could change it, but it is a law and we can't talk about just arbitrarily disregarding it. The wetlands are nurseries for fish and birds and other wildlife. Wetlands reduce flooding, retarding waterflow. We would have less flooding if we had more wetlands. Wetlands improve water quality. Another thing, I think we should preserve and try to restore the wetlands and if we can obtain more land by suitable methods, we should do that, too. The dam releases promote the wetland habitat also.

Of the alternatives offered to us, GP2021 seems to be the best. Now there may be some better one, I wouldn't know about that. But commercial interests have a right to advocate for their

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advantage, they have a right to do that, but I think we should remember the river belongs to all of us, not everybody who tries to earn money from it, and so the recreational values and the psychological and spiritual values of the river should be valued also. Thank you.

COLONEL FASTABEND: Thank you, Mr. Nyberg.

MR. MOORE: Kathy Andria.

KATHY ANDRIA: Good evening. My name is Kathy Andria. I'm with American Bottom Conservancy. Our organization applauds the recommendation of the Fish and Wildlife Service for ecological restoration of the Missouri River and we support the flexible flow alternative GP 2021. We will be submitting comment, written comment at a later date, but tonight I would like to speak as an individual as a citizen of the State of Illinois. I grew up in Granite City, an industrial town in the American bottom floodplain across the Mississippi River from St. Louis. We live just a few blocks from the river. I remember being flooded as a child, with boats going up and down our street. My father was a carpenter who helped build the Chain of Rocks Canal and the lock and dam which made river navigation for barges easier. It also effectively cut off Granite City from the river.

I left Granite City and lived elsewhere for most of my adult life and returned to care for aging parents. In 1993 I once again lived just a few blocks from the river and the canal. Like so many others that summer, I watched the river rise driving daily to check the levees and talk to a farmer who was watching sand boils that were developing. At the end of July I got a U-Haul. I loaded it with my treasured photographs and the quilts my grandmother made and drove with it attached to my car. I hadn't long to wait. Another levee downstream broke, it was in Monroe County and it was Valmeyer and those areas that flooded.

After the flood there were studies, reports and promises to stop development in floodplain and even to remove levees. That was 1993. The American bottom was declared a Presidential disaster area again for flooding the next year, and the next, and the next, for four straight years, and yet just five years later some of the elected officials who say they are protecting people from flooding are supporting building more and higher levees. Development in the floodplain is rampant. Warehouses, parking lots, shopping centers replacing wetlands. The Missouri River is restricted by those

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levees. Floods are more frequent and more severe. Restricted water flows faster. The faster water comes flowing into the Missouri River at the confluence it affects our levees into the Mississippi River, or Illinois levees. Barge traffic also affects the integrity of our levees.

Today there are more and higher levees, bigger barges, fewer wetlands and more floodplain development. Several speakers talked about the economic hardships they would suffer. More than 100,000 people live behind the levee that runs across from the confluence. Their homes and families are threatened. A half million people would be affected in Madison and St. Clair Counties should the levees break. The bottom area is full of industry; oil refineries, steel processing mechanical plants, there are several landfills including some with hazardous waste. There are several Super Fund sites including Dead Creek and Sauget. Toxins, heavy metals PCBs. If they flood those contaminants, toxins and poisons will mix with the water. I can't even imagine the dollar cost of such a cleanup or the threat to the people who live there.

So it is not only the economy of the grain industries and the barge owners that should be

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considered, it is the total cost of the potential destruction that can occur. I recently heard General Arnold of the Mississippi River Valley Division of the Corps say we should do what's best for the river. I have been critical of various Corps' decisions and projects but I applaud the Corps' efforts on ecosystem restoration. And I agree with General Arnold, what's best for the river is to remove all levees and dams and let the river run free and reclaim its floodplain. Rather, let's compromise and go with the flexible flow and for the moratorium on permits to develop wetlands and floodplains and on new and higher levees.

Thank you again for this opportunity to comment.

COLONEL FASTABEND: Thank you, Ms. Andria.

MR. MOORE: Virginia Harris.

AUDIENCE: She's gone.

MR. MOORE: Kevin Perry.

KEVIN PERRY: Good evening, Colonel Fastabend. My name is Kevin Perry and I'm President of the REDFORM (phonetic). REDFORM is the regulatory environmental group for Missouri. We are a business association comprised of member companies from all over the State of Missouri. Our members include

automobile assembly plants, electric utilities, water companies, chemical manufacturers, cement kilns and others both large and small. REDFORM and its member companies are committed to being responsible and active members of our communities. As such, we work to protect, preserve the environment by complying with and going beyond the minimum number requirements of federal and state environmental laws, regulations and policies. As a part of that commitment we work closely with regulatory and policy-making authorities in the state on issues that affect business and the environment.

I'm here this evening to voice our support for the Current Water Control Program for the Missouri River. Further, we vigorously oppose any management plan involving the split season or summer low flows. You've heard throughout this Hearing process from those who can more eloquently than I explain the devastating impacts that are associated with management plans based on the U.S. Fish and Wildlife Service's Biological Opinion. Those impacts include disruption of critical transportation capabilities, increased risks of flooding, reduced agricultural production and a host of other legitimate concerns. Each of those negative impacts

Other 6, 23

is significant enough on its own to justify the elimination of the split season summer low flow proposals from serious consideration. Yet there are additional issues that are of particular concern to REDFORM members. These are primarily based on water supply. Communities that supply drinking water, utilities that generate power, and industries that manufacture the goods that we rely on in our daily lives, these operations were designed based on flow rates that were established prior to the proposals that are before you now. Most of these facilities are operating with concentration based limits in their permits. Reduced flow could increase concentration levels and make compliance with environmental regulations difficult. In order to save compliance, cities and industries along the Missouri River will be forced to either add costly treatment technology, cut back on operations or close plants. If they fail to comply they will be subject to stiff penalties.

Additionally, the waste load allocation process that is required under EPA's final rule on TMDLs should not be overlooked. This pits one company or community or farm operation against all the others in the same watershed in a battle for the

WS11

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1 right to continue operating. Reducing flows can only
2 make this challenging allocation process more
3 difficult and rancorous. Environmental protection
4 and preservation thrives on economic productivity.
5 The controls that our members use to protect the
6 environment are costly. The measures that are
7 employed to preserve the good life in Missouri can
8 only be paid for by companies that are succeeding
9 economically. It's ironic then that the responsible
10 corporate citizens in Missouri which provide jobs and
11 contribute to the viability of our communities are
12 being threatened by an upstream water resources grab
13 that is essentially a wolf in sheep's clothing. In
14 the name of protecting habitats for endangered and
15 threatened species, upstream interests are seeking
16 higher reservoir levels to support recreation. The
17 mindset of those who seek to misuse the Endangered
18 Species Act is demonstrated by their support of the
19 so-called Garrison Diversion Project, which we also
20 oppose. That would divert water out of the Missouri
21 River basin. This diversion would negatively impact
22 all of the designated uses for the Missouri River,
23 thereby increasing the potential for significant
24 environmental impacts.
25 In closing, I want to thank you on behalf

Other 7, 23, 198

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1 of the member companies of REDFORM for hearing our
2 concerns and I reiterate our support for the Current
3 Water Control Plan. Thank you.
4 COLONEL FASTABEND: Thank you, Mr. Perry.
5 MR. MOORE: Robert Goodwin.
6 ROBERT GOODWIN, JR.: Good evening,
7 Colonel. Just a question. Am I the last speaker?
8 MR. MOORE: Yes.
9 COLONEL FASTABEND: We think so.
10 ROBERT GOODWIN, JR.: Does that mean I can
11 read all twenty pages very slowly?
12 COLONEL FASTABEND: I wouldn't try it.
13 ROBERT GOODWIN, JR.: In that case, I'll
14 abridge this very quickly.
15 Colonel, my name is Bob Goodwin. I
16 represent the Maritime Administration, a local agency
17 of the U.S. Department of Transportation. We have
18 been following very closely the development of the
19 Master Manual Revisions over the last few years and
20 we have had the opportunity to review the
21 environmental assessment and the alternatives that
22 have been proposed and I would like to point out that
23 we've done this from the perspective of its impact on
24 the National Transportation efficiency of all other
25 modes of transportation, recognizing that each mode

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of transportation has a unique role to play. And we also look at it based upon the impact that the alternatives might have on our national security. We're going to be submitting a formal statement and I would like to touch on three issues tonight that are of principle concern to us, and they are the spring rise, the split navigational season, and the economic impact analysis that has been done based on the low flows into the mid-Mississippi River.

First on the spring rise, this puts water into the Missouri River at a time when it is potentially harmful to vessel operators and we're very concerned about the safety implications here; shippers, dock operators and farmers. The only benefits that we perceive is the spawning spur that occurs within 59 miles immediately below Gavins Point Once you get below that point the tributaries contribute to the Missouri River to the point where it has no impact whatsoever. What we have to question is what the benefit cost ratio would be when you look at the impact of only 59 miles of this type of environmental spur to the pallid sturgeon when you look at the impact, the economic impact on barge operators, shippers and dock operators.

Nav 80
EnSp 5,29

The split navigation season is one that,

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simply stated, would kill navigation on the Missouri River. If this happened this would disrupt flow of goods and products into the Missouri Valley and the entire upper Midwest. The only benefit would be an additional 164 acres of habitat for the piping plover and the least tern. Again, we have to ask what is the real economic impact of this for such a minimal improvement to the habitat for these endangered species.

Nav 12
EnSp 2,46

The last issue is one that is very important to us and that is the economic impact of low flows on the mid-Mississippi River. What we have seen is that when you look at this you did not take into consideration the impact of those who operate on the river from the dock side and the shipment side and look at the impact of transfer of products from one mode of transportation to another if it diverted off the water. We feel this type of economic analysis should be done as quickly as possible so that it can contribute to the final decision that is made.

Miss 4, 29

Based on our analysis at this stage of our review, we feel that the only option that is viable would be to continue with the existing Water Control Manual. Thank you.

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COLONEL FASTABEND: Thank you, Mr. Goodwin.

Okay. This is the point in the evening where I ask is there anyone else that would like to make a comment?

BILL BRYAN: Colonel, I hate to disappoint you.

COLONEL FASTABEND: Ahh, I admire your boldness.

BILL BRYAN: My name is Bill Bryan and I am Deputy Chief Counsel for Missouri Attorney General Jay Nixon, and I wasn't going to say anything tonight but I heard a few things that I felt like I wanted to say a few things to you in response, Colonel.

First of all, there earth is not flat. There are folks who would have you believe that the Missouri River falls off the face of the earth at St. Louis but it just isn't true. It's equally untrue that your agency has no authority to operate the Missouri River to benefit or to have a beneficial impact on what happens on the Mississippi River. We've provided briefs to the Corps that in the past have amplified your legal authority and we'll provide them again in the future and I'm sure that when you read them you'll see it's fully evident that you have

Miss 37

authority to operate the Missouri River taking into account what happens on the Mississippi.

Second, this is an upstream/downstream issue, despite what my friend Mr. Sando said earlier this evening. When water is kept in the lakes upstream, it's not released and it doesn't come through Missouri and benefit the people in Missouri. It's that simple. It is an upstream/downstream issue.

Other 7, 23, 198

There is -- Really the best vantage point to see the Missouri River is from the seat of a canoe, and I wanted you to know, Colonel Fastabend, that there are few people in the state who have spent more time in a canoe on the Missouri River than Attorney General Nixon. He's canoed every mile of the river between Kansas City and St. Louis. As you look around the country you will not find an Attorney General who has a stronger environmental record and is more progressive in environmental litigation in protecting our environment for future generations than Attorney General Nixon. So it's from that base that I want you to understand that we have done what lawyers do. We're not biologists, we're not engineers. As lawyers, we have looked at the evidence on both sides of the issue. Myself or

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Mr. Kardis, my colleague from our office, have listened to the comments made by every single Missourian at all the Hearings you've had in our state. We've listened to the evidence, we've talked to people across the country, anyone who would listen to us, anyone who would share with us what their thoughts, what their evidence was on the various alternatives on the Biological Opinion. The navigators, the farmers, whoever, we've listened and we've talked to everybody and as we have looked at the evidence what we see from Executive Summary and from the RDEIS is what it all boils down to is about 164 acres of habitat for terns and plovers that is not in the State of Missouri, it's upstream near Gavins Point, and less than a four million dollar average annual benefit to recreation. Now, 164 acres sounds like a lot to me because I only own about ten acres, but relative to the farms and the wildlife preserves we have along the river, it's not much.

Four millions dollars seems like a lot to me because I work for the State of Missouri, but relative to what the Corps has valued at an eighty-four million dollar a year recreation industry on the upstream lakes, it's not that much either. And so as you leave Missouri and take into account

EnSp 46
Rec 6, 10

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what you have heard, I would like for you to look at it in that perspective. You've heard from hundreds of Missourians who have concerns about the plans that are presented and is it worth it is the question that I have, to upset those legitimate expectations of people who have made a living along the river who have certain expectations. Is it worth it to upset the apple cart for 164 acres of habitat and for a three or four million dollar gain for recreation. Surely we can find a better way to do that. The Corps has shown us how to find a better way time and again and I hope that you can do that here, too.

Thanks for coming to Missouri and spending so much time with us and with our people, and we will provide more comments at a later time. You haven't heard the last from us. Thank you.

COLONEL FASTABEND: Thank you, Bill.

Is there anyone here who would like to make a comment? Allrighty then.

In closing, I want to remind you that the Hearing Administrative Record will be open through 28, February, 2002, for anyone wishing to submit written facts through electronic comments. Also, if you want to be on our mailing list to receive a copy of the transcript you need to fill out one of the

cards available by the entrance.

If there are no further comments, this Hearing session is closed and I would like to thank all of you for your endurance and your commitment to this process, it's very important and I appreciate it very much. Thank you.

COURT REPORTER'S NOTE: The following people handed the Court Reporter a prepared speech but did not stay to read their speech, however they wanted to have their speech incorporated into the transcript. The Court Reporter is stating the he has included the following speeches with the transcript:

RICHARD W. STEGMANN

CURTIS J. JOHNSON

DAVID A. VISINTAINER

[Adjourned at 11:55 p.m.]

State of Missouri)
) SS.
County of St. Louis)

I, GERARD A. KRIEGSHAUSER, a Registered Professional Reporter and duly commissioned Notary Public within and for the State of Missouri, do hereby certify that the preceding 191 pages of transcript were the proceedings held at the Radisson Hotel & Suites, 200 North Fourth Street, St. Louis, Missouri, 63102.

I further certify that I am neither attorney, nor counsel for, nor related, nor employed by any of the parties to the action in which this deposition is taken; further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto or financially interested in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 28th day of November, 2001.

My Commission expires July 16, 2003.

_____
Notary Public in and for the
State of Missouri

John W. Smith, Deputy Director, Missouri Department of Conservation
Testimony on Behalf of Missouri Governor Bob Holden and the State of Missouri
Missouri River Master Manual RDEIS Hearing, St. Louis, Missouri, November 13, 2001

Read as testimony - see pages 24 - 30

On behalf of Governor Holden and the State of Missouri, thank you for this opportunity to share my thoughts and observations with you this evening.

This issue is of supreme importance not only to Missouri, but to the entire nation, and I want to thank you for holding this hearing to listen to the comments and concerns of the people of Missouri.

As Missouri continues to evaluate the newest data from the Corps, we will be looking to ensure that the Missouri River remains a "river of many uses," including recreation, navigation, agriculture, hydropower, water supply, and fish and wildlife conservation. Balancing the interests of both the upstream and downstream reaches of the river is absolutely essential to achieving this goal.

Because of the vital importance of these issues, Missouri maintains that all decisions must be based on sound science. We strongly believe that if all sides of this discussion commit themselves to adherence to solutions founded on valid scientific studies, that will enable us to make substantial progress on resolving the issues that have been debated for so many years.

Contrary to some representations, Missouri is firmly committed to improving the environmental health of the Missouri River. However, we believe that there are ways to achieve these benefits while still protecting, and possibly enhancing, the lives and livelihoods of the Missourians who live on or near the banks of the Missouri River.

A significant concern to Missourians is that many of the proposals in the Revised Draft Environmental Impact Statement (RDEIS) include plans to increase total system storage in the upper lakes. We have apprehensions that such changes would significantly reduce the ability of the Corps to ensure that the River is managed to the benefit of all residents of the basin.

The Corps must have adequate flexibility to respond to a wide variety of situations, both anticipated and unforeseen. We believe these proposed changes to storage levels in the upper lakes would limit the Corps' capacity to perform its statutorily mandated role.

Missouri has further concerns that these changes to total system storage could eventually restrict the use of water by downstream states and thus be detrimental to the future welfare of Missourians. Missouri strongly opposes any plan that would reduce the amount of usable water released to downstream states.

Furthermore, in light of the importance of the endangered species in this discussion, Missouri also suggests that the effects of increased storage of water in the upper lakes on the endangered species be examined. Comprehensive data regarding the impact of higher levels in the upper lakes on the endangered species is not currently available, and we believe this information should be included in this dialogue.

~~11/09/1 1:26 pm~~

A second key component of many of the current proposals is for a variety of reduced flows from Gavins Point Dam in the summer. The flow levels and timing of the current proposals differ significantly from the historic hydrograph. Missouri recognizes that a properly timed and proportioned reduced late summer flow will likely benefit some sections of the River's ecosystem. I thus support efforts to achieve a flow level that will help these species, while also ensuring that the long-term viability of river commerce on the Missouri River is not degraded.

Missouri believes that such a flow level exists. Our state has advocated a reduced flow of 41,000 cfs at Kansas City from August first through September fifteenth. The goal of this proposal is to accomplish these flow conditions approximately three of every five years in order to balance the interests of the endangered species, recreation, and the continued support of other uses of the Missouri River.

Proposals to depart from current operations must also consider the effects of any changes on Mississippi River system navigation. The entire inland waterway system depends on the supplemental flows from the Missouri River into the Mississippi. I do not support proposals that are detrimental to the long-term viability of navigation on either the Missouri River or the Mississippi River.

Finally, any reduced summer flow alterations must be water neutral. As I said before, Missouri will strenuously oppose proposals that reduce the amount of useable water released to downstream states.

A third key component of many of the current proposals is a periodic spring rise, created by federal releases of additional water from Gavins Point Dam during May. Missouri has serious concerns that the current proposals for expanded spring releases could have adverse effects for the bottomland farmer in Missouri, including increased flood risk, higher groundwater levels and inadequate drainage throughout the lower basin.

Additional spring releases could potentially compound the effects of large rainfall events downstream of Gavins Point, thereby increasing the risk of unanticipated flow levels in downstream states. The dangers of such a spring rise are increased because water from Gavins Point Dam takes approximately 10 days to reach St. Louis. Spring flooding keeps farmers out of their fields during the planting season, and higher groundwater levels reduce yields, thereby having a significant negative impact on Missouri's bottomland farming community. Missouri's agricultural community must be a top priority in this discussion, and I will strive to ensure that the agricultural community along the Missouri River remains viable and profitable in the twenty-first century.

Such concerns must be weighed against the fact that the lower stretches of the Missouri River, including the entire 553 miles in Missouri, already receive a natural spring rise from tributary inflow. Thus, such a change would have little impact on the riverine species living in the stretch of the river within or bordering on the state of Missouri.

One issue that has occasionally been lost because of the more contentious nature of some of the other proposals is the importance of habitat improvement projects in restoring the aquatic diversity lost to the creation of the upstream lakes, and channelization and bank stabilization efforts over the last fifty years. Missouri believes that an active program of habitat creation and restoration, augmented by appropriate alterations to late summer flows, would substantially

~~11/09/1 1:26 pm~~

assist the recovery of the endangered species. Our state has undertaken a number of habitat improvement projects, often in concert with the Corps, and we believe that these cost-effective and uncontroversial efforts deserve significant investment by the federal government.

Finally, one issue of high-importance to our state, which is not currently in any proposals but has been raised at various times during this discussion, is the possibility of water transfers out of the Missouri River basin. Missouri unequivocally opposes out-of-basin transfers. Such transfers constitute economic and ecological threats given the existing demands for water within the basin and the needs of species dependent on the river for their survival.

In conclusion, Missouri is firmly committed to restoring and protecting the Missouri River – and ensuring that the river is managed for all citizens. As the evaluation process of proposed changes continues, I want to reiterate the importance of basing all decisions on sound scientific data, and further urge that all of the potential impacts and opportunities to both the Missouri and Mississippi River systems for each component of every proposal be considered. Thank you for the opportunity to express my position on these extremely important issues.

~~11/09/1 1:26 pm~~

Congressman Todd Akin's Statement for the Record on the U.S. Army Corps of Engineers Revised Draft Environmental Impact Statement for the Missouri River Water Control Manual:

Read as testimony - see pages 39 - 47.

Good Evening. I want to extend a warm welcome from the St. Louis Region to members of the United States Army Corps of Engineers-Northwest Division. I appreciate the opportunity to provide comments on the Corps of Engineers Revised Draft Environmental Impact Statement (RDEIS) for the Missouri River Master Manual. This issue is of vital importance not only to the St. Louis Region but to the entire State of Missouri as well.

However, before I express my comments on the Revised Draft Environmental Impact Statement for the Missouri River, I want to inform you about the area that I represent and how that area is impacted by the Missouri River. As a U.S. Congressman, I represent the 2nd District of the State of Missouri, which includes West and Northwest St. Louis County and a good portion of St. Charles County. The Missouri River separates these two counties. The 2nd district borders the Missouri River from approximately river mile 49 all the way to its confluence with Mississippi River(see the blue shaded area on the enclosed map). Needless to say, my constituents on both sides of the river are impacted by it in a number of ways. Heavy flooding and severe drought are just a couple of examples of how river conditions can affect the 2nd district (see enclosed satellite photos showing drought and flood conditions on the Missouri River near the confluence).

In its Revised Draft Environmental Impact Statement, the Corps has released a range of six alternatives for the operation of the Missouri River Mainstem Reservoir System. These alternatives include the Current Water Control Plan(CWCP), a Modified Conservation plan consisting of lower summer flows during drought conditions, and four alternatives which consist of annual lower summer flows and increased spring releases from the Gavin's Point Dam. The U.S. Fish Wildlife Service recommended these spring releases and lower summer flows in its recent biological opinion to the Army Corps of Engineers.

Out of all six of these proposed alternatives, the only alternative for the operation of the Missouri River Reservoir System that I can support is the Current Water Control Plan(CWCP). All of the other alternatives consist of either a spring release and or lower summer flows out of Gavin's Point Dam. I am adamantly opposed to any plan that incorporates these flow changes from Gavin's Point. I believe that these proposed changes to the Current Water Control Plan would have a devastating effect on Missouri's agricultural, navigation, water supply, electrical production and flood control interests.

Spring Release or "Spring Rise"

A spring release or "spring rise" would be very detrimental to Missouri's flood control interests because it would release more water during peak flood season, and increase the chances of flooding on the lower Missouri River. In addition to this, a spring rise will also result in interior drainage problems for the numerous farmers along the River. Missouri's farming communities would feel the brunt of these increased water

levels if a proposed spring rise were adopted. My agricultural constituents in Western St. Louis and Northern St. Charles Counties are particularly uneasy about any increased spring releases out of Gavin's Point given their previous history with Missouri River flooding.

Lower Summer and Fall Flows:

I am also opposed to any lower summer flows out of Gavin's Point because these low flows will result in a shortened or split navigation season, which will virtually wipe out navigation on the Missouri River. This would be unacceptable because reliable navigation in the fall during and after harvest is absolutely critical for the agricultural and shipping communities.

Wiping out navigation on the Missouri river would be disastrous for several reasons:

1) Moving commodities by barge is more cost-effective than moving them by rail or truck. It is widely believed in the business community that the mere presence of navigation on the river helps keep down the costs of other modes of transportation through a concept known as "water compelled rates." Without navigation as a viable transportation alternative, the cost of other modes of transportation, such as rail, is likely to rise for all shipping dependent businesses. Water Compelled rates result in savings to businesses and consumers because of the competition produced by the barge industry.

2) Eliminating barge traffic would have a negative impact on the environment, particularly here in the St. Louis Metropolitan Region. Barges are the most environmentally friendly mode of transportation available. According to the EPA, towboats emit roughly 35-60% fewer pollutants than rail or trucks. One modern Missouri River tow (9 barges) can hold the equivalent of 135 rail cars or 522 trucks. Without barge transportation on the river, air and noise pollution and fossil fuel consumption would increase. The St. Louis Region, which has been classified by the EPA as a moderate non-attainment area under the Clean Air Act Amendments of 1990, has been making valiant efforts in recent years to improve its air quality status. It would be counter-productive to the compliance efforts of our region if the federal government decided to undertake a measure like this that would negatively impact the air quality of our region.

3) Thirdly, eliminating barge traffic on the river would not be in the best interest of the safety of Missouri's traveling public because it will most likely force more truck traffic onto our state's already substandard and congested highways. Anyone who has driven Interstate 70 from St. Louis to Kansas City will tell you that the last thing that that highway needs is more trucks on it.

In addition to Missouri River navigation, I am also very much concerned about the effects that the five other alternatives will have on Mississippi River navigation. During periods of low flow in the Mississippi River, the Missouri River provides as much as two-thirds of the water to the "bottleneck reach" of the Mississippi River between St. Louis, Missouri and Cairo, Illinois. Combined with an increase in depletions from the Missouri River System, all five other alternatives would significantly reduce water levels in the Mississippi to below the required levels for effective navigation. The issue of reliable Mississippi River navigation is crucial to both Missouri and the entire Midwest since approximately 60% of U.S. bulk agricultural products are moved to world ports via the Upper Mississippi River System. Any resulting halt in barge traffic on the Mississippi would have crippling effect on interstate commerce.

Finally, lower summer flows, particularly those advocated by the Fish and Wildlife Service in the Gavin's Point alternatives, would seriously affect the ability of utility companies to provide adequate supplies of drinking water and electricity to the people of Missouri.

For example, two of the Ameren UE Corporation's largest power plants are located on the Missouri River—the Callaway nuclear plant and the Labadie coal-fired plant. These two plants, which account for nearly 45% of Ameren's generating capacity in Missouri, rely on Missouri River flows to create electricity for its customers. Without an adequate supply of water from the Missouri River, these two plants cannot generate the power to serve the needs of Ameren's customers in the St. Louis Region and the eastern portion of the state. Ameren is specifically concerned with the Fish and Wildlife Service's recommendations which call for "excessively low" summer flows at a time when Missouri River levels have already been drawn down naturally. These low flows would greatly impede Ameren's ability to provide reliable electric service to it customers during the summer months when demand is at its highest.

Species Recovery:

As stated previously, the U.S. Fish and Wildlife Service's draft biological opinion recommended higher spring releases and lower summer flows out of Gavin's Point Dam than which exist in the Current Water Control Plan. The biological opinion concluded that the Corps' current operation of the Mainstem Reservoir System jeopardizes the continued existence of three species—the endangered least tern, the threatened piping plover and the endangered pallid sturgeon(fish). Therefore, these recommended flow changes, in the Service's view, constitute a "reasonable and prudent alternative" to recover these species.

The Missouri Department of Natural Resources (MDNR) strongly disagrees with the Service's assessment on this matter. Independent analysis by both the MDNR and the Corps indicated that the Service's flow plan achieves very few of the desired conditions that biologists say are necessary to recover these species. This includes attributes such as shallow water habitat, floodplain connectivity and sandbar creation.

The MDNR believes that off channel and non-flow-related mitigation and physical habitat restoration are the best ways to enhance species recovery. According to MDNR, long term physical habitat improvements make much greater gains than the minimal benefits that **may** occur with a Gavin's Point spring rise.

It is my understanding, that substantial gains have been realized for these same endangered species on the lower Mississippi River using creative habitat restoration rather than altering flow patterns. I believe that this approach, along with a comprehensive monitoring program, should be initiated on the Missouri River as well.

Conclusion:

Therefore, out of the six alternatives released by the Corps of Engineers, I feel that the Current Water Control plan is the only feasible alternative that I can endorse. I also want to clearly state that I strongly oppose any proposed alternative for the management of the Missouri River that includes consistently higher reservoir levels, lower summer flows and a spring release from the Gavin's Point Dam and any further water depletions from the Missouri River Basin.

In conclusion, I will continue to work with the Governor and the rest of the Missouri Congressional Delegation on this issue in order to protect Missouri's environmental, economic, agricultural, power and water supply interests. Missouri and the rest of the Midwest simply cannot accept the RDEIS's proposed changes to the Current Water Control Plan.

Once again, I thank you for allowing me the opportunity to provide comments on this issue here tonight.

Read as testimony - see pages 47 - 50.

Testimony of Congressman Roy Blunt

The U.S. Army Corps of Engineers, Northwest Division, Public Hearing
regarding the Missouri River Water Control Manual
November ~~8~~, 2001
13

The Missouri River is an important part of the lives of many of my fellow Missourians and I believe it is imperative to continue the productive and responsible use of the river.

The Missouri River plays a vital role, economically and environmentally, in lives of all citizens of the state of Missouri. The level of the river is controlled to help protect those who live, work and own businesses on its banks from devastating floods. Many industries also located near the Missouri River utilize it to transport goods economically. It is also home to a large variety of fish and wildlife species. All these interests must be taken into account during the decision making process.

The U.S. Army Corps of Engineers needs to continue the Current Water Control Plan (CWCP) which best addresses the needs of those affected by the management of the Missouri River. The alternative management plans proposed by the U.S. Army Corps of Engineers sacrifice flood control and year round availability of barge transportation. It is unreasonable to endanger human lives and property to provide fish and wildlife species with flow conditions that may prove beneficial to them.

CWCP is the management plan that balances fish and wildlife habitats with the economic and financial concerns. We should strive to strike a balance between the environment and the livelihood of Americans that depend on the Missouri.

Alternative management plans to the CWCP are problematic for a number of reasons. First, increased reservoir levels in the Upper Basin lakes, which would be caused by the implementation of one of the other management plans, reduce the water commitment to Lower Basin states. This reduced water commitment adversely affects irrigation, transportation, drinking water and utility operations.

Secondly, the increased "spring rise" would leave the river vulnerable to flooding. The danger of flooding is already great without altering the flow to make floods more probable.

Third, water levels during the summer months would fall to such a level that barge transportation would be impossible. This would devastate those who depend on river transportation by forcing them to utilize more costly means of overland transportation. It would also be a crippling blow to those companies whose barges travel the Missouri River.

I urge the U.S. Army Corps of Engineers to adopt CWCP in order to ensure responsible river management.

U.S. ARMY CORPS OF ENGINEERS
MISSOURI RIVER MASTER MANUAL REVIEW
AND UPDATE REVISED DRAFT
ENVIRONMENTAL IMPACT STATEMENT (RDEIS)

Read as testimony - see pages 50 - 55.

November 2001

Presented by
Todd Sando
North Dakota Assistant State Engineer

Thank you for the opportunity to testify on this very important issue. Governor Hoeven provided testimony on the Revised Draft EIS on October 23, 2001 in Bismarck, North Dakota. Governor Hoeven's testimony and the detailed written comments that North Dakota state agencies will be submitting describe the state's position on this draft EIS. I am here this evening to listen to the concerns of our downstream neighbors, and to provide a brief description of North Dakota's position.

I attended the November 6, 2001 meeting in Kansas City and was pleased to hear so many people asking for change. While many concerns were voiced regarding change, it is apparent that this is no longer an upstream versus downstream fight. The long period of study and negotiation has moved many people throughout the basin closer to a compromise plan for operating the Missouri River.

My message tonight is the same strong and clear message that North Dakota and most of the Missouri River basin states have been voicing for years. The Missouri River Master Manual must be changed to meet the contemporary needs of the basin, and the time for this change is far past due.

Any of the five alternatives described in the draft EIS are an improvement over the current water control plan. The drought conservation measures included in the five new alternatives, are essentially those agreed to by seven of the eight Missouri River Basin Association (MRBA) member states. These drought conservation measures proposed by MRBA are an improvement over the 40-year-old Master Manual and should be implemented as soon as possible. Strictly from North Dakota's standpoint, they do not go far enough. However, we recognize that progress often requires compromise and, as a result, we favored a plan that could be supported by seven of the eight Missouri River basin states. This MRBA plan includes the conservation measures that the upper basin states need but does not include a spring rise below Gavins Point due to many concerns expressed by our downstream neighbors.

The draft EIS shows that these drought conservation measures increase the total NED benefits of the system as well as the benefits of most authorized uses. Unfortunately, Missouri River navigation benefits are slightly reduced under any of these alternatives. However, navigation is only one of the authorized purposes of the reservoir system. The benefits of all uses must be considered equally when operation decisions are made. It should also be noted that although navigation support for the Mississippi River in not an authorized purpose of the Missouri River dams, all five of the new alternatives reduce the average annual cost of Mississippi River lost navigation efficiency. The MRBA spent a great deal of time developing features that would provide this benefit to the Mississippi.

Although the Missouri River and operation of the dams are critical to North Dakota's future, we realize all of the states in the basin depend on the river. North Dakota does not consider the Missouri River to be only our water, and we do want to equitably share the water, but this includes both pain and gain. Approximately one third of the Missouri River basin's total runoff

enters the river above Gavins Point dam. About 75 percent of this runoff into the mainstem reservoirs comes from Montana and Wyoming. Essentially all of the storage of the water is in North Dakota, South Dakota and Montana - over 1.6 million acres of land was acquired by the Corps for the reservoirs in these three states. Promises were made when the dams were authorized by Congress in regard to water development and water use. For example, the O'Mahoney-Milliken Amendment, which is part of the 1944 Flood Control Act, states that the use of water from the reservoirs for navigation shall not conflict with any beneficial consumptive use, present or future, in states lying wholly or partly west of the ninety-eighth meridian. Given these facts, perhaps you can understand why we become slightly annoyed when we see published comments by officials from the state of Missouri claiming it is all "their" water.

Comments have been made about the impacts of the Dakota Water Resources Act on the Missouri River. The Dakota Water Resource Act is a vastly scaled down version of the original Garrison Diversion project and provides only a fraction of the irrigation promised to North Dakota in compensation for the land lost to the reservoirs. The exact water needs for North Dakota included in the Dakota Water Resource Act have not yet been determined and, in fact, are only in the study phase. However, the amount is likely to be only a few hundred cubic feet per second compared to an average annual flow of the Missouri River at Hermann, Missouri of over 79,000 cfs. To state it another way, the Dakota Water Resources Act will put to beneficial use less than 1 percent of the annual flow at Hermann, I doubt that the USGS gage can accurately measure such a small amount.

Lastly, I thank you and our downstream neighbors for this opportunity to describe North Dakota's position. I ask that everyone take away from this meeting that the benefits of the Missouri River and the pain of shortages in times of drought should be shared equitably throughout the basin.

Jefferson City River Terminal
P.O. Box 104960
Jefferson City, MO 65110-4960
573-634-4880

Read as testimony - see page 59.

November 13, 2001

Corp of Engineers:

Jefferson City River Terminal and Midwest Cement Co. are involved in towing barges to and from Jefferson City, Missouri and involved in loading and unloading barges at the Jefferson City location on the Missouri River. We barge in bulk cement from Hannibal, Missouri and Clarksville, Missouri. Pre-fab concrete and transformers are barged to this location to be unloaded.

We need a minimum of an eight month navigation season to get products to Jefferson City, Missouri in the early spring and out in the fall. We are opposed to a split navigation season and ask to continue the plan that is in place at this time.

Towing barges with 8-foot draft and 1,313 ton per barge or 52 truck loads per barge, we can bring 312 truck loads to Jefferson City, Missouri with a 6 barge tow. This is burning less fuel per ton moved and the air quality from emissions from the engines is less in proportion than by truck. This is less foreign oil being used and less contamination to the air, which is an advantage for all.

By having an eight month navigation season we can be more competitive to our customers in the Missouri area.

Jefferson City River Terminal
Midwest Cement Co.

Robert Hugh Cox

Robert Hugh Cox

U.S. Fish and Wildlife Service
Public Comments
Missouri River Master Manual Hearing
November 13, 2001 - St. Louis, Missouri

Read as testimony - see pages 55 - 58.

Good evening, my name is Charles Scott and I'm here this evening on behalf of the U.S. Fish and Wildlife Service to issue a brief statement on the Revised Draft Environmental Impact Statement for the Missouri River Master Water Control Manual. I'm also here to listen to the comments in person from citizens on this important issue.

The Service has primary authority for oversight of our nation's rarest animals under the Endangered Species Act. The Missouri River is home to the endangered pallid sturgeon and least tern, and the threatened piping plover. The decline of these species tells us that the river is not healthy for its native fish and wildlife, and that there needs to be a change in its management to restore the Missouri to a more naturally functioning river system. A healthy river provides wildlife habitat, supports fishing, and makes boating an attractive recreational activity.

Congress committed the Federal Government to preventing extinctions by requiring Federal agencies to use their authorities to conserve endangered and threatened species. During the last 12 years our agency has been working with the U. S. Army Corps of Engineers to modernize the management of the Missouri River to help stabilize and hopefully, begin to increase and recover populations of these vary rare animals. This new approach was described recently in a document called the "Missouri River Biological Opinion," published in November 2000.

The biological opinion looks at the river as a system and outlines the status of these rare species, the effects of the current operation on them, and a reasonable and prudent alternative to the current operation that will not jeopardize their continued existence.

Our biological opinion is based on the best available science and includes nearly 500 scientific references. In addition, we've sought out 6 respected scientists – "big river specialists" – who confirmed the need to address flow management, as well as habitat restoration. Further, the Missouri River Natural Resources Committee, a group comprised of the state experts on

Missouri River management, endorses the science in the opinion.

If you have read the RDEIS or summary document, you understand that the "GP alternatives" encompass the range of flows identified by the Service as necessary below Gavin's Point Dam to keep the listed species from being jeopardized. Our agency, and the Corps, also recognized the importance of some flexibility in management that would enable Missouri River managers to capitalize on existing water conditions to meet endangered species objectives without having to go through another 12-year process.

Other management changes identified in the biological opinion include a "spring rise" out of Fort Peck Dam, an improved hatchery operation to assist declining pallid sturgeon populations, restoration of approximately 20% of the lost aquatic habitat in the lowest 1/3 of the river, intrasystem unbalancing of the three largest reservoirs, and acceptance of an adaptive management framework that would include improved overall monitoring of the river.

In closing, the Service supports the identified goal of the revised master

manual - to manage the river to serve the contemporary needs of the Missouri River Basin and Nation. These needs include taking steps to ensure that threatened and endangered species are protected while maintaining many other socioeconomic benefits being provided by the operation of the Missouri River dams. The Service stands behind the science used in the opinion, and is confident that the operational changes identified in our opinion, and included in the RDEIS as GP alternatives will ensure that these rare species continue to be a part of the Missouri River's living wildlife legacy.

The Missouri River is a tremendous river, with a significant and revered heritage. Our influence has altered the river greatly. Changes are needed to modernize and restore health to the river – for the benefit of rare species and for people, too.

Corp Copy

Janet K. Melzer
1427 Norwood Hills
O'Fallon, MO 63366
melzer@brick.net

Read as testimony - see pages 60 - 64.

I represent myself and my family. Although I have lived in urban areas for the last 30 years, I grew up on a farm where we worked Missouri River bottomland. This gives me both a city and rural viewpoint for most issues. I support the Current River Plan, although not the Adaptive Management part of the plan. The reasons for my support of the Current Plan are based on knowledge of the effects of Spring Rise, Reduced Summer Flow, threatened species, and bank stabilization, including the proposal for Adaptive Management.

To start at the end with Adaptive Management, as I want to emphasize this point throughout, the use of Adaptive Management in itself is good, as all good plans need to modify as they move forward, but the Team that is proposed is the problem. The team needs to be a blend of Corps, Fish & Wildlife or other Environmental Groups, and business people including agriculture, navigation, recreation, and other affected businesses. Business, including agriculture, must have major input to this, as they are the group affected. If you look at a map of Missouri, a great part of the land adjoining the Missouri River is agricultural use. The farmers have the experience of a lifetime of working with the river in good and bad years, and cannot afford to have a new plan to start working against them. They must have input to the ongoing operation of the plan. Therefore Adaptive Management must include the business people involved, the Farmers.

Spring Rise is the hardest point of the plan to understand. How can anyone who has ever had anything to do with the Missouri River ever think that Spring Rise, even every 3 years, is a good plan for anything? Saying that they would control the release in high water years is irresponsible, as no one can know within 10 days what the weather will be in the lower Missouri. Not only is planned Spring Rise risky for agricultural, it endangers all businesses along the Missouri River. We have all seen the best of levees topped by Nature. Besides just endangering all businesses, it increases the problems of interior drainage and drowned-out crops even if the levees hold. Spring planting cannot move forward when interior land is soggy, and farmers and businesses who need loans in the Spring Rise years can count on higher rates, or even loan denials. I can't imagine how insurance companies who provide flood plain property coverage will account for this every third year.

The plan for Lower Summer Flow will affect me more directly as a city dweller. I commute every day on Highway 70 to my job and back. The number of tractor trailers is a bane to any traveler even if you are only going to the Mizzou game on Saturday morning. Just when we are worrying more about the safety of what trucks might be carrying, all plans except the Current Plan take away barge traffic. Just when oil drilling and the burning of fossil fuels is a major issue, all plans except the Current Plan add more trucks to the highway, burning more fuel. Highway safety is a constant goal, and yet these other plans add to the problem. Groups, who are most against the drilling and consumption of fossil fuels, are bent to remove the more efficient barge traffic, and up the truck traffic.

As a total animal lover, as anyone who knows me would attest, I am the first to defend an animal, but as a farm girl, I learned that even my best pets did not come ahead of people and their needs. If you review your RDEIS Summary chart comparing the impact with the Current Water Control Plan, you see that for all other plans, the majority of the positive effects are for Wildlife Habitat and Fish habitat in Lakes and Rivers, with small numbers for Recreation and very small numbers for Hydropower. And if I understand your Hydropower numbers correctly, the subtractions for costs for Lower Summer flows may actually subtract from these numbers even more. I do understand from other sets of 'experts' that even the claims for Tern and Plover improvements may not be well founded. The negative affects for all plans besides the Current Plan influence the Economic issues of Flood Control, Interior Drainage, Groundwater, Navigation, and Historic Properties. All plans besides the Current Plan even have Negative affects on Riparian Habitat, so we are taking from some environmental groups and giving to others while negatively affecting all economic issues. Endangered Species Act must be weighed against all other issues, and cannot be the only driving force for every action we take no matter the consequences. Farmers live with the land and nature daily and must be listened to when these are the issues.

A few last words about Bank Stabilization. My family has lost land in recent years to the River due to removal of some dikes in the Missouri River. The farmers again were not consulted or had any say, yet their lands were negatively affected and valuable riverside habitat and woodlands are lost. The farmer must be involved in decisions affecting his livelihood.

In closing, due to the problems of Spring Rise, loss of Navigation, unsupported and economically not viable environmental claims, and loss of Bank Stabilization, the Current Water Plan is the only possible choice. Making choices based purely on environmental issues with no regard for economic factors will make future decisions unnecessary, as there will be no one left to pay for, protect, and have time to enjoy the environmental programs.

Janet K Melzer

STATEMENT OF DENNIS WINGERTSAHN, VICE PRESIDENT, OPERATIONS, MISSOURI-AMERICAN WATER COMPANY

St. Louis, Missouri Public Meeting, November 13, 2001
U.S. Army Corps of Engineers RDEIS for the
Missouri River Master Water Control Manual

Read as testimony - see pages 64 - 68.

Good evening. My name is Dennis Wingertsahn, and I am the Vice President of Operations for Missouri-American Water Company. We appreciate the opportunity to provide comments to the Corps of Engineers concerning the Revised Draft Environmental Impact Statement (RDEIS) and future management of the Missouri River.

Missouri-American operates three water treatment plants that use the Missouri River as their source of supply. Although we are in support of managing the Missouri River in a manner that protects our natural resources, it is equally important to consider the impacts of any dramatic flow changes on businesses, including the agriculture, navigation and water and power supply industries, as well as citizens of the state of Missouri.

Missouri-American Water Company depends on the Missouri River to supply over 1 million residents of St. Louis County and Jefferson City, Missouri with clean, safe drinking water. The two Missouri River water treatment plants in St. Louis County account for 80% of the potable water provided to our customers in the St. Louis metropolitan area. It is imperative that sufficient water be available to effectively provide this necessary service to Missouri residents as there is no adequate, alternate source of drinking water available.

Of the alternatives identified in the RDEIS, we support the extension of the Current Water Control Plan. Missouri-American Water Company opposes any plan to decrease Missouri River flows that may compromise our ability to pump sufficient water to meet the drinking water needs of our customers. Based on past operating history, and

difficulties in periods of low flow, we would be unable to operate effectively and economically given any additional flow reductions. Additional water restrictions could hinder our ability to provide a reliable source of potable water during the summer months when demand is at its highest, and could impair pumping operations in the winter months due to low flows. In fact, low river levels experienced as recently as December 2000 threatened to limit our ability to withdraw adequate quantities of water to meet demand. Further, a lower flowing river, as well as flooding conditions present water quality and operational problems, thereby creating additional difficulties and expense in treating water to quality standards. Our company has a paramount interest in maintaining the integrity of the river as this is the same water we must treat in order to supply the public with safe drinking water that meets the extensive drinking water quality standards set by the U. S. Environmental Protection Agency. It is also important to note that our operations rely on the ability to receive reliable electric service and it is imperative that our access to this source of power will not be compromised.

The RDEIS Summary states the Gavins Point releases would be adjusted in the spring and summer if necessary to improve habitat. While we support species habitat restoration, and believe there may be better ways to accomplish the intended objectives, the uncertainty of these adaptive management flow adjustments, and the manner in which they would be conducted, create a legitimate concern as it relates to the availability and amount of water in the Missouri River. Water flow in the Missouri River must be managed with both environmental and economic concerns in mind, and in a manner that will not place our drinking water supply in jeopardy.

Statement of Charles E. Kruse
President, Missouri Farm Bureau
November 13, 2001

Read as testimony - see pages 72 - 75.

Good evening Colonel Fastabend. My name is Charles Kruse. I own and operate a family farm in Stoddard County—about 150 miles south of St. Louis. I also serve as President of Missouri Farm Bureau, the state's largest general farm organization.

First, I want to commend the Corps staff for their perseverance and hard work. They have always been willing to answer our questions and listen to our concerns.

For the record, Farm Bureau strongly opposes the flow changes now being considered. While we remain hopeful that a balance can be achieved, with the exception of the current plan, none of the options are acceptable.

Many people in this room have been involved in this issue since its inception. In fact, I gave the following remarks at a public hearing on the Corps' Preferred Alternative in October 1994:

> *"To farmers, the detrimental impacts of the plan appear obvious and very immediate while some of the stated environmental goals and objectives appear far more vague and harder to verify. We fear that plans such as the Corps' preferred alternative fail to adequately consider the human population and only serve to further undermine public support for reasonable efforts to protect fish and wildlife."*

Colonel, today, seven years later, we find ourselves facing the same alternatives and our position has not changed.

Unfortunately, what started out as a debate about drought management has evolved into a referendum on the Endangered Species Act, an attempt to expand significantly the Missouri River mitigation program and an all-out assault on river commerce.

The U.S. Fish and Wildlife Service cites the Endangered Species Act as the reason for their rigid position. According to them there is but one very prescriptive way to avoid a jeopardy opinion. From where we sit, that is hard to believe.

It is ironic that Congress has voted, on several occasions, to support language prohibiting the Corps from implementing a spring rise. In fact, Congress has now made it perfectly clear the Corps must maintain all authorized uses of the Missouri River.

Colonel, we have members that farm in all twenty-five counties along the Missouri River. They continue to struggle with extremely low commodity prices and rising input costs. In fact, the federal government has had to step in for four consecutive years with emergency economic assistance.

The Bush Administration has indicated that we must be more involved in global markets. In other words, we need to be more competitive.

If that's the case, shouldn't we be doing everything possible to enhance river commerce…not only on the Missouri but other rivers such as the Mississippi? Losing river commerce not only eliminates an important mode of transportation, but also gives the green light to railroads and trucking companies to raise their rates.

In closing, the availability of a reliable and predictable water supply from the Missouri River is critical in order to provide millions of Missouri citizens with a constant source of safe, clean drinking water both now and in the future. As such, we request that the operation plan implemented by the Corps be flexible enough in nature to respond to changing downstream river conditions by adjusting releases from the upstream reservoirs to maintain the river within reasonable and necessary levels. This would include ensuring adequate flows during the summer period when withdrawals from the river for water supply are greatest, and during the winter months, when ice formation can cause unusually low river conditions. Missouri-American Water Company will continue to review and analyze historical operating data and the alternative water control plans, and will provide additional comments to the Corps prior to the close of the public comment period. Finally, it is important for us to remember that water is a nonrenewable resource, and it is critical to the State of Missouri that the Missouri River continues to be a consistent, dependable source of water to its citizens.

Thank you for your consideration of these comments.

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Shouldn't we be making every effort to decrease the risk of flooding in the fertile bottoms? Our farmers already know the impact of higher flows in the spring. The fact is, we already have a spring rise and don't need to be part of a "contemporary" science experiment.

It makes no sense to force farmers and rural communities to participate in a risky scheme that may, or may not, increase populations of three species.

In closing, Colonel, we are not opposed to any change. We believe there are alternatives that could enhance aquatic habitat without major system modifications, without massive new land acquisition programs, without significant increases in energy costs, without controlled flooding and without out of basin transfers.

For this reason, we have no choice but to strongly oppose the alternatives currently under consideration.

Statement of Roger Walker, Chair, Water Committee,
on behalf of the

Read as testimony - see pages 87 - 90.

St. Louis Regional Chamber and Growth Association

U.S. Army Corps of Engineers public hearing on future management of the Missouri River
November 13, 2001
St. Louis, Missouri

The St. Louis Regional Chamber and Growth Association (RCGA) supports the Current Water Control Plan. While there must be literally hundreds of alternatives that St. Louis RCGA could support, the only plan on the table at this important public hearing that it can support is the Current Water Control Plan. The St. Louis RCGA also offers the following comments.

1. We are here today in large measure because of a longstanding desire by upper Missouri River basin states to permanently take Missouri River water for recreation, irrigation and other demands. The Army Corps is proposing drastic changes on the basis of a U.S. Fish & Wildlife Service (FWS) jeopardy Biological Opinion under the Endangered Species Act. The Biological Opinion, itself, is scientifically flawed and the Endangered Species Act is being misused by those who hope to achieve higher reservoir levels and by those who hope to eliminate other important public uses of the Missouri River including navigation. A related issue that demonstrates the mindset of some upper-basin interests is the so-called Garrison Diversion that would allow an out-of-basin diversion from the Missouri River into the Red River which flows into the Hudson Bay. This unprecedented diversion is the tip of the iceberg for additional claims to Missouri River flow.

2. The listed species: the endangered pallid sturgeon; endangered least tern; and threatened piping plover are at risk. However, the U.S. Fish & Wildlife Service has not explored any other alternatives. Indeed, the FWS has not even designated critical habitat as required by the Endangered Species Act. The FWS has chosen instead to essentially designate great lengths of the Missouri River for species recovery at the expense of all other congressionally authorized uses of the river. The Army Corps, in all due respect, essentially has presented us with two options: the current river management plan and several variations of the FWS Biological Opinion calling for a spring rise / summer low flow and higher reservoirs. It is unacceptable that the literally hundreds of alternatives to protect these species have not been examined or considered in any public debate. It is unfortunate that the

FWS would essentially handcuff the Corps in this manner by failing to provide true alternatives to protect these species.

3. All of the options except the current plan would usurp the authority of the Army Corps of Engineers' longstanding legislative authority to manage the river. The concept of "Adaptive Management" as outlined in the alternatives not only defrocks the Army Corps from this role, but also subverts the National Environmental Policy Act (NEPA) process. This NEPA process is federally mandated and the best way in which federal actions that impact the environment can receive public scrutiny. We do not want river management actions taken behind closed doors. We cannot support river management by the U.S. Fish and Wildlife Service.

4. The spring rise puts Missouri farmers and our communities at risk for flooding. We have a natural spring rise in Missouri and this proposed artificial rise put our region and state at risk in ways that we cannot predict or control.

5. We strongly oppose the split navigation season and see this as a thinly veiled attempt to end navigation on the Missouri River. Others have spoken more eloquently on the issue, but the bottom line is that our region, state and country need this alternative transportation mode in order to remain competitive in the world market. Moreover, the split navigation season not only destroys navigation on the Missouri River, but also will have a far more drastic impact on Mississippi River navigation than these proposals suggest. The Corps must do additional impact analysis of the impact to the Mississippi River navigation.

6. Finally, the rule of unintended consequences is also at play here. These proposals and subsequent implementation will put the drinking water resources of our region at risk through increased flooding, negative changes to river quality, or even inhibit the ability of our citizens to rely on the river as a drinking water source. In addition, Missouri businesses that rely on the Missouri River as a source of water or that discharge into the river are placed at significant economic and regulatory risk. These companies have expended millions of dollars to ensure compliance with environmental permits or make use of the river as a resource based on the reasonable expectations of Missouri River flow patterns. The Corps proposals place these companies at considerable financial risk -- a risk that ultimately will be borne by the public and a risk that has not been examined at all by these alternatives.

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Read as testimony - see pages 91 - 96.

Oral Statement
Of
Christopher J. Brescia
President
MARC 2000

Missouri River RDEIS Public Hearing
St. Louis, Missouri
November 13, 2001

Good evening Col. and welcome to St. Louis. My name is Chris Brescia. I am President of MARC 2000 which is a public advocacy coalition of entities the length of the Missouri, Mississippi and Illinois Rivers. Our members employ or self-employ over 150,000 individuals in the river basin and operate in over 24 states. Our single mission is the long-term viability of navigation infrastructure on all three rivers.

Due to the time limitations tonight, I will summarize our key concerns, submit certain documentation for the record and place certain requests on the record as permitted by the NEPA process. We hope and expect to receive formal consideration and responses in the public record of these proceedings. Prior to the completion of the public comment period, we will also submit a more complete statement for the record.

We are gravely concerned with the timing of these public hearings. We, as part of the Committee to Protect the Missouri River requested a postponement of the hearings so that all the documentation substantiating the Executive Summary and impact analysis could be provided prior to responding in public. We can only surmise by the denial of that request, incomplete documentation and incomplete impact analysis studies, that this

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process is premature and should be challenged under NEPA at the appropriate time.

Over the next few nights, here in St. Louis, in Memphis and New Orleans, I would like to focus on:

- The presentation of documentation;
- The biological basis for four of the alternatives;
- The methodology used to arrive to conclusions; and,
- The clear risk posed to the sustainability of Missouri and Mississippi River navigation

NO [illegible] the navigation community [illegible] clear [illegible] but [illegible] we could all give the maximum a state stay in [illegible]. It was not enough for a N.D.

Presentation of Documentation

Clearly your team is challenged to find ways to present very complex data affecting so many aspects of the river. However, by summarizing data over a 100-year period, the Executive Summary is rendered meaningless. Over hundred years, any major negative impacts can virtually be eliminated.

The fact that significant impacts to Missouri River navigation can still be demonstrated illustrate the severe level of destruction that could be wrought to our region's economy. Companies that cannot operate for 1-3 years without profits will close. But they are lost in your statistical compilation. Just as your hydrologists have attempted to validate their model based on known data, so too must your economists validate their impact analysis. This has yet to be done!

Biological Basis

The GP alternatives are all based on a Biological Opinion issued by the U.S. Fish and Wildlife Service. This poor excuse for a scientific document presents well-researched theory and prescriptive conclusions. What's missing is empirical testing of the theory.

Today, we would like to present, for the record, our critique of the Biological Opinion and request of the U.S. Army Corps of Engineers a response to every single point raised by our team of biological experts. If ever there are actions that diminish the credibility of government in the eyes of the public, it is when we spend extraordinary time reviewing documentation, submit our comments and receive no response.

Methodology

It is important to understand that when we evaluate the hydrological models used to present these alternatives we are mystified that public policy decisions are expected to be made with so little regard to risk analyses. For the last 7 years we have asked for plausible depletion scenarios that are still lacking. What if your model does not track with reality? Mother nature has a way of continuing to challenge the Corps of Engineers in the water resource prognostication business. A shift of one foot in river states in either direction is very likely and radically alters the feasibility of proposed changes to the Missouri River and the impact analyses.

We have challenged the presentation of impact analysis in summary table format which lead to the comparison of "apples to oranges," misleading the public. Opponents to navigation love to compare your numbers with recreation. Yet, if the Corps were to value recreation according to the same methodology as navigation, there would be virtually no NED benefits to recreation. If you can't water ski in Montana, you simply go to Minnesota.

Col. you have to excuse our pessimism, but right smack in the middle of your public hearings, we received a briefing from the your team on the navigation impact analysis. Some of the studies have just been initiated and here we are with a Summary document to the public which would lend us to believe we already have the answers. In that meeting we found that certain assumptions being made were erroneous. I would submit that it's always easy to plot out answers to models when you control the assumptions. But when those assumptions don't wash with reality, you have a flawed process.

The impact analysis on Mississippi River impacts that you share with the public is misleading and flawed. In fact, statistically your team should have eliminated outlier years that significantly skew your results. Just eliminating one year of data for 1939 radically changes the summary impacts. Imagine what the public would find if they had access to each year of record and compare against business losses and foreclosures?

Mississippi & Missouri Rivers

I would like to close with these key points regarding navigation:

1. The GP proposals will lead to the end of commercial navigation on the Missouri River. Presenting the impact as 86% is statistical, not real;

2. The MCP proposal will lead to slower death of commercial navigation on the Missouri River with shortened seasons. You cannot eliminate the down bound benefits at the end of the season and expect the retail industry to survive, neither can navigation.

3. Both the GP and MCP proposals will lead to significant impacts on the Mississippi River, contrary to your Executive Summary analysis. Your team has had access to industry representatives and principals for over 10 years and is just now getting to verify their views.

4. Missouri river navigation's impact to the region far exceeds the $7 million quoted in your documentation. This public needs to understand that the commercial tonnage that moves on the Missouri River is but a small part of the region's benefits. There is over 38 tons of freight that move in the basin at reduced rail rates due to competition with the Missouri River. That will end with these proposals and is nowhere to be found in the documentation released to the public.

5. The reliability of the Mississippi River is threatened by these proposals. This is a river system that moves over 120 million tons per year through a section of the river that needs Missouri River water, especially in those periods the GP and MCP alternatives will deny it

water. The entire Middle Mississippi channel training structures were designed assuming the CWCP. Considerable economic and environmental costs will result under the GP and MCP plans. These impacts have not fully been evaluated.

6. With a shift of 10 million acre feet that will not flow down the river system, posed as conservation measures, it must be recognized that those benefits will only accrue to the Upper Basin states. With altered triggers and arbitrary season restrictions combined with loss of over 100 dikes on the MO River navigation system, even more water is necessary to meet minimum service navigation needs.

MARC 2000 opposes five of the six alternatives and continues to believe that the Current Water Control Plan provides the best alternative to meet all Congressionally authorized purposes, including navigation, flood control, recreation, hydropower and fish and wildlife needs. After all, it was under the CWCP that recreation grew and prospered, it couldn't have been all that bad.

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SIERRA CLUB
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PIASA PALISADES GROUP

Most of this was read into testimony - see pages 98 - 103,

Some paragraphs are additions - as noted.

November 13, 2001

Colonel David A. Fastabend
US Army Corps of Engineers
Northwest Division
Attn: Missouri River Master Manual RDEIS
12565 West Center Road
Omaha, Nebraska
68144-3869

Dear Colonel Fastabend,

Thank you for the opportunity to present testimony, regarding the citizens' desire for a balanced management plan of the Missouri River within the flow frequency conversation.

The Piasa Palisades Group of the Sierra Club believes that the primary goal of the Missouri River Management Manual should be to support native habitat restoration. All other management goals and recommendations should be subservient to this overriding goal.

The Piasa Palisades Group has been active in the attempt to maintain the health and vitality of the regional river basin. We have also been in coordination with a broad-based coalition as we study the impacts that have occurred from managing the Missouri River for navigation purposes. Ecological destruction and loss of species throughout the basin, coupled with the negative impacts on the upper basin resources should heed warning to how the Missouri River has been managed and the changes that must take place if a balanced ecosystem chances to survive and flourish in the future. The influence of dams, and levees and the resulting disassociation of the river from its floodplain, the ever-increasing wetlands destruction, and the lack of thorough scientific monitoring for water quality, habitat quality, species decline, and species recovery have lent themselves to an impaired and degraded national treasure.

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www.Illinois.SierraClub.org/PiasaPalisades

It is time to change the river's management practices and work on improving the longest river in our nation, the Missouri River. The Missouri River once nourished an abundance of wildlife through the natural rise and fall of the water: the lower flows in the late summer and fall and the rising flows in the spring and early summer. Because of these flows, life proliferated in the river's sheltered backwaters, sloughs, mud flats, deep pools, oxbows, gravel bars, and marshes. The annual nourishment, life, and variety of habitats have been curbed by the construction of dams for a negligible navigation industry.

The Piasa Palisades Group endorses managing the Missouri River for purposes other than navigation. While this suggestion may seem revolutionary, we have found that the cost-benefit analysis does not warrant management of the lower Missouri River for navigation. The Army Corps of Engineers continues to manage the lower basin of the Missouri River for a non-existent barge industry: by comparing the original Corps waterway projections from the 1950's to the latest Corps traffic figures, one can see that the barge industry is currently at 12% to 20% of the original expectations. Commercial shipping only brings in $7 million annually, compared to the nearly $90 million in economic benefits each year that angling related expenditures generate, such as resorts and local boat manufacturers.

Arguments attempting to support the navigation industry on this particular stretch allege that navigational flows on the Mississippi River are dependent on the Missouri River. Yet, questions aimed at all relevant state and federal agencies assert that the Missouri flow change would not cause an impediment of the navigation industry on the Mississippi. The Corps of Engineers has asserted that a specific flow alternative would actually save the industry $7.3 million per year (U.S. Army Corps of Engineers, RDEIS Summary, August 31, 2001, p 25).

Therefore, the Piasa Palisades Group proposes the cessation of navigational management on the Missouri. This critical step would allow for 1) the restoration of a more natural lower river channel below Sioux City, 2) the partial restoration of seasonal in-stream flows, and 3) the elimination of a heavily subsidized and uneconomic system.

If the Corps of Engineers do not choose such a proposal, then the Piasa Palisades Group of the Sierra Club supports the "split-season" flow regime for spring high flows once every three years, with low summer flows occurring every year. The rising spring and early summer flow will help to create river habitat and provoke fish reproduction cycles. The low water in the late summer and fall will expose sand bars, which provide essential shallow water habitat. Revising dam operations to accommodate both of these stages is essential if the Army Corps of Engineers' is to manage the river in a balanced manner. Such management would undoubtedly be a positive environmental, community, and economic benefit as it works toward the prevention of species extinction, provides recreation and tourism opportunities such as fishing, canoeing, boating, hiking, and camping, and even provides for some barge traffic. Of the diminutive amount of cargo

that is transported by barge, at least 80 percent of it moves before July and after August. This points to the ability to continue barge traffic under the recommended "split-season" flow changes.

It is time to shift the focus from managing the river for inexistent barge traffic and tailor it to a practice that benefits both the environment and the economy. One prime example is the high local and tourist dollars that are generated through angling. It has been found that such hydrological flows would increase populations of walleye, sauger, smallmouth bass, and other game and bait species. Fishermen could be more active on the river, as the flows create better boating conditions on the lower river, on the upstream reservoirs, and on the river's remaining semi-natural segments. A high flow release every one in three springs would trigger a stronger spawn for game and baitfish, while nourishing the backwaters, sloughs, and other habitat areas that serve as nurseries for the young fish. Currently, the angling sport brings in $90 million. A restored Missouri River could increase that figure significantly.

We also would like to stress that such recommended changes would provide 99 percent of the flood control benefits provided by the current water control plan. The spring rise would only happen an average of once every three years. No spring rise would occur if the Missouri River below Gavins Point Dam is flooding or threatened by potential flooding. We have a true understanding that the Corps would continue to work to limit any increased risk to these croplands, and efforts should be made to help these farmers deal with drainage problems.

Hydro 42

We would also like to note that a fall rise is not justified, either historically or ecologically. Some agencies and interests may be pushing for such an artificial rise because it may be beneficial to the navigation industry. Because the Piasa Palisades Group urges the Army Corps of Engineers to manage the river for purposes other than navigation, we consider a fall rise to be unnecessary and urge the Corps to seek the leadership of the USGS to determine the fall flows by adaptive management reviews with independent review and analysis.

The flow regime is only one of many components in the quest to return to a more natural river hydrograph. In order to manage the river to support native habitat, changes will inevitably have to be made within the Army Corps of Engineers' management system. Concerns include the topics of levees, the reconnection of floodplains and the river, dams, Conservation Easement Funding, and thorough and scientific monitoring for water quality, habitat quality, species decline, and species recovery. To accommodate some detail and explanation, this comment paper will briefly go over the main points of such assertions.

Colonel Fastabend, 11/13/01, p. 4

- *Levees and The Reconnection of The Floodplains and The River:*

FC 34

No new levees should be approved or constructed on the Missouri River that protect beyond the agricultural level of a 5-year flood. This is because industrial levees that accommodate 100+ year floods have separated the river from its flood plains. Flood heights are often increased when the river is cut off from its floodplain by levees and dams. The Missouri River should have the ability to expand into its floodplain during high-water events as each acre of wetlands can store up to 1.6 million gallons of floodwater depending on the type of wetland. This translates into less water moving downstream and into adjoining communities. Thus, the river should not be limited to a channel that is designated by the Army Corps of Engineers but should be allowed to inundate its floodplain. For the restoration of a natural floodplain habitat that can accommodate both existing industry and native species in a riparian corridor, the industrial levees should be set back 1500 feet from the "Ordinary High Water Mark" to allow for an escape valve for flood water.

- *Dams*

Other 276
EnSp 50
Nav 11
ErSd 30

No new dams should be considered or constructed on any of the tributaries of the Missouri River. Current dams have caused major disruptions in the ecology of the river basin as they replaced the seasonal fluctuations of water flows to accommodate the barge traffic. People, fish, and wildlife have had to pay the price for the damage that is still occurring. Currently there are three species on the brink of extinction as a direct result of dams: the least tern, the pallid sturgeon, and the piping plover. The Army Corps of Engineers has failed to meet the least tern and piping plover reproduction goals in eight of the last ten years; the two years when the reproductive goals were met occurred when habitat conditions improved due to natural flooding. The number of barges that require the Army Corps of Engineers to operate the dams is small enough to warrant the cessation of maintaining the current dams for navigation, let alone building any new ones.

The Piasa Palisades Group supports finding ways to redistribute the sediments and water flows that are necessary to reestablish the natural communities of the basin, including the stretch from the lower Missouri River to the Gulf of Mexico. Thus, it is also highly recommended that Gavins Point Dam should be retired as a flood control or water retention structure. Sediment build-up is pointing to the end of the dam's useful life. Upon this end, the Army Corps of Engineers should consider its removal because of the importance of restoring the sediment flows to the river. If this option is not viable, the dam should become a "run of the river" structure where the water comes in and out at will.

4

Colonel Fastabend, 11/13/01, p.5

- *Conservation Easement Funding:*

Other 182, 186

Floodplains and wetlands store floodwaters, improve water quality, recharge groundwater supplies, provide habitat for native river wildlife, and provide recreation opportunities for the community. Poor land-use decisions that allow development in a floodplain are putting more people at risk and eliminate the natural flood control functions of these areas. For instance, flood deaths and damage are on the rise:

*Total flood deaths rose from 74 in 1989 to 105 in 1999.
*Total flood damages rose from $1.1 billion in 1989 to $5.5 billion in 1999.

Easements should be purchased through Wetlands Reserve Program (WRP) and the Enhanced Wetlands Reserve Program (EWRP). Set-aside programs would make certain that development would not occur in such sensitive areas where fallow upland areas are subject to erosion. This would ensure that human lives would be protected, property damage would be minimized, wildlife habitat would be restored, water quality would be improved, and recreational opportunities could be expanded. These and other permanent or long-term set-aside programs need to have management support from federal agencies like the US Corps of Engineers. When possible, the floodplains and riverine wetlands should be purchased directly, like the Big Muddy Wildlife Refuge of the USFWS.

While we support economic development of our nation, we do not do so at the expense of our natural ecosystem. Overall, United States Citizens would save money through such proactive procedures as placing land into easements.

- *The monitoring for Missouri River Management Plan*

EnSp 12
Other 119

Monitoring should be accomplished in a thorough manner to ensure that water quality, habitat quality, and species recovery is truly occurring. Species recovery should include "endangered" species while accommodating the prevention of further habitat loss and consequent indigenous species decline. In terms of costs and timesavings, both the science and economic community confer that it is more efficient to prevent species from becoming threatened or endangered than it is to fully recover a species once it is on the edge of extinction. A scientific based agency, such as the USGS, USFWS, or the states' fish and game management agencies should conduct the monitoring.

A key component of such monitoring is making adaptive changes to the management plan when the expected results do not come to fruition. This will allow the management plan to address problems that may occur with regards to water quality, habitat quality, or species decline. Such adaptive management is supported and encouraged by the Piasa Palisades Group. The US Geological Survey should conduct management monitoring and any subsequent recommendations for changes

5

Colonel Fastabend, 11/13/01, p. 6

because of the extensive monitoring training and research training that exists for biological and geological systems that they posses.

Thank you for giving us the opportunity to comment regarding one of our Nation's waterway management plan, the Missouri River Master Water Control Manual. We are pleased to see that the Army Corps of Engineers is actively working towards a river management plan that balances traditional uses of the river with environmental concerns, namely the restoration of native habitat and species recovery. In determining the flow regime, we hope the emphasis lies on native ecosystem restoration.

Sincerely,

Christine Favilla
Three Rivers Project Manager
Piasa Palisades Group of the Sierra Club

6

Tuesday, November 13, 2001

Read as testimony - see pages 104 - 107.

Johanna Beaudean
4997 Fairview Ave.
St. Louis, MO 63139
Johannabeaudean@yahoo.com

Re: Missouri River Master Water Control Manual

I'm Johanna Beaudean. I have lived in the city of St. Louis for the past six years and work as a project manager for a large investment firm. I grew up on a farm near Hermann and own land in the Missouri River bottom.

I would like to voice my support for the Current Water Control Plan, with modification to the call for adaptive management. My support for this plan is based on a knowledgeable and logical understanding of the effects of spring rise, reduced summer flow, adaptive management, species and habitat restoration, and rock dike removal.

Our family lost 34 acres of bottomland forest when rock dikes were relocated or removed from the Missouri River. The removal of these dikes affected navigation on the river, in addition to the effects it had on the family farm. Business owners in the area were not consulted prior to the decision being made to remove these dikes. As I stated earlier, this was 34 acres of bottomland forest. It was not land that was suitable for farming. It was not bringing in revenue for the farm. However, it was an environment well suited for many species of wildlife.

- 1 -

This brings me to the point of species and habitat restoration. The business owners and people on and along the Missouri River are committed to restoration of wildlife habitat. They would be concerned with preserving, rather than restoring, wildlife habitats if groups such as the Coalition to protect the Missouri River had been consulted prior to making such changes to the Missouri River system. The Coalition to protect the Missouri River is made up of 25 organizations including the Missouri and Iowa chapters of the Farm Bureau, the Corn and Soybean Growers Association, Ameran UE, and the Midwest Area River Coalition, which is made up of river navigators.

The business owners cannot do their part to adequately manage the privately owned land along the Missouri River, without being part of the Adaptive Management Agency Coordination Team. This is a great opportunity for improved management of privately owned lands along the Missouri River. Involving the business owners in the decisions allows them to manage their lands in the best possible way, as they can work toward accomplishing the same goals as the other members of the Agency Coalition Team. It is also a great opportunity for the state of Missouri to gain input on expanding the use of publicly owned land along the Missouri River to improve wildlife habitats. The Coalition to protect the Missouri River will add a great deal of knowledge and value to the Agency Coordination Team. It would be a grave mistake to overlook the importance of this group in an Adaptive Management plan.

Greater investigation into the plan for reduced summer flow reveals the damage that implementation of such a plan would have on the state of Missouri.

The effect of reducing the summer flow will be the reduction of navigation on the Missouri River. Reduction of navigation on the Missouri River will result in increased traffic on Missouri highways. The statistics that I received from the Missouri Department of Transportation state that it would take 900 tractor trailers to haul a load equal to that of one tug boat pushing a maximum of 12 barges. The elimination of one tug boat from the Missouri River would increase pollution, as 900 tractor trailers use an enormous amount more diesel fuel than one tug boat. Highway safety would be further degraded as a result of increased traffic. Costs would increase for transporting the cargo, if it were transported by plane, train or truck instead of by barge. I don't believe that any of these factors were considered when proposing a reduced summer flow. If they were considered, I cannot believe that any reasonable citizen of this state would be willing to incur these financial and environmental costs on the **chance** that it **might** save one species of bird.

The last point that I would like to touch on is the proposal for a spring rise every third year. It is very difficult for me to see how any benefit will come of this. I have reviewed documentation from the U.S. Fish and Wildlife service and could not find sufficient proof to justify a spring rise every three years. A spring rise is one alternative for **possibly** increasing the spawning period for the pallid sturgeon. However, the USFWS has not proven that a spring rise would actually prompt increased spawning or that increased spawning can save the pallid sturgeon. Again, the plan that has been proposed for a spring rise will no doubt jeopardize the people of this state and this country and there is a **chance** that it

might save a sub-species of fish. I challenge the USFWS to provide alternative solutions to saving the pallid sturgeon, solutions that do not endanger human life or livelihood in the process. The proposed spring rise is neither "reasonable nor prudent", with respect to the business owners or individuals who work and live along the Missouri River. The USFWS states that a spring rise is both "reasonable and prudent" on their website. How soon we forget the damage and costs associated with flooding! It has only been six years since this country and the state of Missouri paid millions of dollars in flood relief and welfare to the business owners and families living along the Missouri River. There were millions of dollars spent in addition on clean-up and rebuilding of towns and highways.

I would like to restate my support for the Current Water Control Plan, with the before suggested modification to the call for adaptive management. I ask that the Corps of Engineers include the Coalition for protecting the Missouri River as a member of the Agency Coordination Team. I hope I have made clear the costs associated with a spring rise and a summer flow reduction. Again, I challenge the U.S. Fish and Wildlife Service to develop solutions that can be **proven** to save these three specific species and sub-species of fish and bird that does not jeopardize human lives and livelihood in the process.

- 4 -

MISSOURI COALITION FOR THE ENVIRONMENT

6267 Delmar Blvd. 2-E • St.Louis MO 63130 • 314-727-0600 Fax: 314-727-1665 • moenviron@moenviron.org • www.moenviron.org

Read as testimony - see pages 108 - 110.

STATEMENT OF POSITION
MISSOURI RIVER MANAGEMENT
NOVEMBER 13, 2001

The Missouri Coalition for the Environment supports changes in the management of the Missouri River as proposed by the U.S. Fish and Wildlife Service. The Coalition also shares the concern of other Missourians about the possibility of large depletions of Missouri River water by upper basin states in the future and opposes any additional depletions, especially proposals that would transfer water out of the River's basin.

Human manipulations of the River over the past century have brought some benefits to society, but the counterbalancing environmental and economic costs have become too great to continue current management practices. It is time to return some degree of balance to the Missouri River ecosystem by replicating historic flow patterns and restoring significant areas of fish and wildlife habitat.

The Fish and Wildlife Service has been indicating for more than a decade that changes are needed to the Corps of Engineers' management of the River. Any further delay will risk the extinction of at least three species and will certainly bring about litigation by private parties that may result in a court ordered management plan. To its credit, the Corps has undertaken partial measures to aid the three threatened and endangered species at issue, but these efforts are not sufficient to prevent their extinction. A comprehensive management plan that addresses both flow patterns and habitat restoration should be implemented as soon as possible.

The Coalition supports alternative GP2021 as set forth in the Corps' Revised Draft Environmental Impact Statement because it comes closest to matching the Fish and Wildlife Service's recommendation. However, GP2021 is only part of the solution. In addition to altering the River's flow, it is also necessary that the Corps implement habitat restoration efforts that are not provided for in the alternatives in the RDEIS. To bring about the partial restoration of the Missouri River ecosystem and avoid further violations of the Endangered Species Act, the Corps should immediately implement measures that provide additional shallow water habitat and reconnect a significant part of the floodplain to the River.

We commend the Corps, the Fish and Wildlife Service and the Missouri Departments of Conservation and Natural Resources for their existing efforts to restore habitat along the River's course. Areas such as Overton Bottoms and Lisbon Bottoms in central Missouri are a good start to bringing about the recovery of the three threatened and endangered species and improving conditions for numerous other species. These agencies should continue their efforts to acquire significant acreage in the floodplain where it is possible to create side-channels and remove existing levee systems. Public land management should focus on restoring ecosystem functions as opposed to managing for a few select species. A healthy ecosystem will maintain populations of all species,

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ORAL TESTIMONY: Public Hearing
Revised Draft Environmental Impact Statement
Missouri River Master Water Control Manual
United States Army Corps of Engineers
Northwest Division

Read as testimony - see pages 120 - 125.

Good evening. My name is Jayne Glosemeyer. I am an agricultural producer in Warren County, MO and my family farms 700 acres in the Missouri River bottoms. I am here tonight representing the Missouri Corn Growers Association. I am on the MCGA Board of Directors. Our organization represents corn growers across Missouri.

MCGA will support the current water control plan because it is the only feasible alternative presented by the Corps of Engineers. All the other alternatives that are being presented would be absolutely devastating for agriculture.

We are opposed to higher reservoir levels in the upper basin lakes. Increased reservoir levels reduce the water available and flood control abilities to the lower basin. Managing the Missouri River flow based on the wants of upstream recreation goes against the original intent of Congress to manage the river for multiple uses including flood control and navigation. We are also adamantly opposed to what is referred to as "the spring rise". First, increasing water releases would flood or decrease drainage on thousands of acres in the Missouri River bottoms. The Corps and Fish & Wildlife Service claim that they can curtail water releases from Gavins Point Dam if downstream flooding occurs. This cannot be true! Once the water is released it will take 8 to 11 days to reach the mouth ofthe Missouri at St. Louis. If we are already experiencing high water levels from

including those that are pursued by people who hunt and fish along the River. In particular, we encourage the Department of Conservation to take a more careful look at its management plan for Columbia Bottoms just north of St. Louis and restore natural processes on this large area of Missouri and Mississippi River floodplain.

Site specific restoration in the floodplain should be coordinated with significant modifications to the Corps' Bank Stabilization and Navigation Program on the lower River. As the Fish and Wildlife Service concluded in its Biological Opinion, it is impossible to avoid jeopardizing the existence of endangered species and restore sufficient ecosystem functions without modifying wing-dikes and bank fortifications. We are concerned that the alternatives developed by the Corps in the RDEIS do not come close to providing the amount of shallow water habitat recommended by the Fish and Wildlife Service. The Corps should immediately plan for and implement modifications to its system of navigation structures in order to restore twenty to thirty acres of shallow water habitat per river mile. These changes should take place simultaneously with the alternative flow regimes set forth in the RDEIS. The Coalition encourages Missouri's Congressional delegation to support additional funding for the previously authorized mitigation program being carried out by the Corps.

The RDEIS calls into question the past practice of managing the Missouri River primarily for the benefit of navigation. The economic benefits of the barge industry on the Missouri River are small in comparison to the benefits of recreation and the many other uses of the River. The National Economic Development data produced by the Corps show that altering the current flow regime to more closely mimic historic patterns will produce an increase in total economic benefits.

A significant amount of concern has also been generated relating to the possibility that the proposed changes in flow will cause more frequent flooding. The degree of these fears is not supported by the Corps' models, especially within the State of Missouri. Under alternative GP2021, flood control benefits would be reduced by less than one percent on the entire River as compared to the existing flow management plan. Moreover, the Corps will retain flexibility that will allow it to alter planned flow increases during times of potential flooding. The Coalition asserts that changes in land use along the Missouri River, including the construction of industrial levees and other constrictions, have had and will continue to have far greater negative impacts on flood heights than the proposed alteration of flows.

The Coalition does share the concern of other Missourians about the possibility of large depletions of Missouri River water by upper basin states in the future. As recommended by the Fish and Wildlife Service, the Corps should initiate a study to determine the extent and impacts of current and future depletions. The history of harmful depletions in the western U.S. shows that, over the long-term, this could be more of a threat to the Missouri River ecosystem than even the current flow and navigation operations. Therefore, it is essential that the impact of current depletions be understood and future proposed depletions be carefully scrutinized. The Coalition opposes any additional depletions from the Missouri River, especially those that would transfer water out of the River's basin.

unexpected heavy rain falls, this proposed "controlled flood" would turn minimal flooding into a major devastating flood damaging many farms and businesses that lay in the flood plain. These higher water tables create interior drainage problems that could delay spring planting even if major flooding does not occur. There are approximately 10,000 acres in our farming community and at least 1/3 of those acres would be affected by poor interior drainage associated with a high spring river stage.

It is also proposed that these increased spring flows would be offset in the late summer by a split navigation season. During July through September, water releases would fall below levels needed to maintain navigation. This would end navigation on the Missouri River.

As you know, barges are a low cost transportation alternative for agricultural commodities and inputs. Barge transportation places competitive pressure on regional rail rates. Railroads can only raise rates to the point where they would start to push traffic onto alternative modes of transportation, for example, barges. It has been demonstrated numerous times that in areas throughout the country that do not have access to barge transportation, rail rates are higher. In their own analysis, the Corps estimates that barge competition reduces rail rates in the Missouri Basin by up to $200 million annually. The importance of barge competition is further heightened as the rail industry continues to consolidate. If barge traffic is eliminated the only other competition would be the trucking industry. Can our highway system support the truck traffic needed to replace barge capacity for transporting commodities?

The Missouri River is also a major source of water for the Mississippi River. During the drought of 1988, Missouri River discharges accounted for 63% of the water flowing past St. Louis from July through October. If planned flow reductions by the Corps would coincide with another summer drought, navigation on the Upper Mississippi would be interrupted, costing the Nation's farmers and industries millions of dollars a day.

We also have concerns about what the Corps calls "adaptive management". Through this proposed adaptive management, the Corps would be given considerable power to make flow release adjustments. These adjustments would be made primarily through consideration of one interest, the endangered species. If it is determined by the government agencies that for the sake of the species it is needed, the highest spring rise and lowest summer flows could be implemented. We cannot assume that any other alternative would be proposed and accepted by the Fish & Wildlife Service. They have single mindedly always proposed a spring rise and split navigation season as the **only** alternative that would benefit the species. They have not proposed any other reasonable and prudent alternative.

MCGA is concerned that adaptive management will result in the loss of the public's ability to be involved in the decisions involving flow management for the Missouri River. It does not follow the law that is provided by the National Environmental Protection Act (NEPA) that allows for public input. Through adaptive management the Corps assumes power not given to it by Congress. Congress did not intend for the Corps to assume the power to implement any changes they feel are necessary or want to try as

an experiment.

In summary, a spring rise is unwarranted and unscientific. It threatens farms and towns with increased risks of flooding and financial losses through reduced internal drainage. The reduced summer flows would end navigation on the Missouri and threaten barge traffic on the Mississippi river. MCGA believes there are other non-flow alternatives to be found, but this will not happen if our government agencies remain narrow-minded and focus their concerns only on the wildlife use of the river. It is time we demand a plan thatwill consider not only the wildlife but also all those affected by the river and the needs that are met by its use.

Thus, MCGA supports the current water control plan. We recommend that the Corps keep the water plan now in operation!

Thank you.

Copy for Court Recorder -

THE LITTLE RIVER DRAINAGE DISTRICT

FLOOD CONTROL & DRAINAGE
SINCE — 1907

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STATEMENT OF
THE LITTLE RIVER DRAINAGE DISTRICT
CAPE GIRARDEAU, MISSOURI
November 13, 2001
St. Louis, Missouri

Read as testimony - see pages 126 - 131.

U. S. Army Corps of Engineers
Northwest Division
Attention: Missouri River Master Manual RDEIS
12565 West Center Road
Omaha, Nebraska 68144-3869

Gentlemen:

My name is Larry D. Dowdy, Executive Vice President of The Little River Drainage District headquartered in Cape Girardeau, Missouri. Our District is the largest drainage and levee District of its kind in the nation. We are involved in the movement of surface runoff of two (2) million acres of farmland and upland runoff each year. We are a totally tax financed organization.

We are opposed to any changes in the current plan of operation of the Missouri River. We are downstream some one hundred (100) miles from St. Louis but areas within our system are effected adversely and directly with any flooding that occurs on the Mississippi River at Cape Girardeau, Missouri. In 1993 if it had not been for our District, our levee system, and other features within our District water from the Mississippi River would have flowed through the delta of the Bootheel of Missouri for 150 consecutive days beginning in April going through most of September. To receive any more water than normal would not have been acceptable to our landowners. Our levee system was never in any danger of breaching, but additional waters would have continued to put more pressure on an already saturated levee which is not desirable.

Downstream of that levee is the livelihood of more than 3,000 private landowners in parts of seven (7) counties. The safety and welfare of those people and many others is dependant upon our levee system working. We object to any plans that would cause our levees to be jeopardized in any way.

1440 KURRE LANE • P.O. BOX 159 • CAPE GIRARDEAU, MO 63702-0159 • PHONE 573-335-3439 • FAX 573-335-4895

Our citizens welfare, safety, and the investments they have already made in our District, and up and down the Mississippi River, and Missouri River are far more important than the least turn, pallid surgeon, or piping plover.

We must remind you and those who advocate making those changes the reservoirs and the improvements which have been made on the Mississippi River and on the Missouri River were authorized by Congress based upon the benefits of flood control, drainage, and navigation. The environmentalists, the conservationists, and other such entities have reaped many benefits from the construction of those reservoirs and from the improvements the U. S. Army Corps of Engineers have made on those two (2) rivers. We do not want to circumvent what Congress has authorized and justified to the taxpayers of this nation.

We are at a point in our nation that we must be exploring every possible means of reducing our dependency upon the foreign oil markets. We need to utilize anything and any mode of transportation which is more economical than our highways. Water borne commerce and transportation is far more economical for moving goods throughout the heartland of our nation. It is much more environmentally acceptable than the many emissions that come from our trucking industry and it is the safest means of transportation we have. We need to look to improve our waterway infrastructure and not be looking for ways to discourage development of those assets. We need to improve, grow and construct more hydroelectric plants on the rivers not less. The people who are advocating these changes for the most part do not live here in the valley, they do not make their living here, they do not have investments here yet they have caused at least three (3) and perhaps more hearings on this same issue over the past few years which is asinine. We continually are wasting the taxpayers money by continually studying these issues, holding these hearings, and striving to find a plan to the benefit of the least turn, pallid sturgeon, and the piping plover. We need to be better stewards of our taxpayers than this.

The last hearing we attended on this issue we learned throughout the Missouri and Mississippi River Valleys that few if any individuals rose to speak in favor of the proposed changes. Our current two (2) Senators, our former Senator, our former Governors, our current Governor, and even the Missouri Department of Conservation and the Missouri Department of Natural Resources have told the Corps this plan is not acceptable and we do not need to make any changes. It is time the Corps of Engineers listen to those people who are affected directly the most.

The information that is bandied about by the U. S. Fish and Wildlife Service has no scientific basis and is highly flawed. In my District's dealings with the U. S. Fish and Wildlife Service we have found them to be an organization that speaks without any validity to the data they put out and most of their information and statements are salted with prefixes such as "this may happen", "this could happen", "this might happen". They never say unequivocally "this will happen". Those groups which support them such as the Sierra Club and other such organizations are based outside the area in question and have no vested interest in the area. We are thankful the U. S. Fish and Wildlife Service, the Sierra Club, and other like agencies did not exist at the

time our forefathers begin developing this country. Had they existed we would still be a third world country and not the leader of the entire world as we are today.

I wish a good friend of mine, who is a retired river boat captain, could have been persuaded to appear before this hearing and make some of the statements he has made to me concerning the Missouri River. His name is Mr. Reece Sanders from Cape Girardeau, Missouri. Mr. Sanders is 83 years old and worked as a river boat captain on the Missouri River in the 1930's. Mr. Sanders has told me on numerous occasions before the U. S. Corps of Engineers took control and had the responsibility of improving navigation, flood control, and drainage on the Missouri River it was practically impossible to take a tug boat without any barges up and down the Missouri River. Mr. Sanders stated to me on numerous occasions the best thing that ever happened to the Missouri River was the U. S. Army Corps of Engineers and the dredging and dike work they constructed and have maintained. He further stated there is much much more that could and should be done on that river.

We believe it is time to quit holding these hearings and it is time to quit studying changes to the Missouri Master Water Control Plan. We believe it is time to tell the U. S. Fish and Wildlife Service and any others that are advocating these changes they are not going to be made and we are going to continue to operate the Missouri River and the Mississippi River in the manner that Congress authorized and approved. Further, please tell them we are going to explore ways and means to improve and grow our navigation, flood control, and drainage interests on these two (2) great waterways of our nation.

Thank you very much for your time and your kind attention.

Yours,

Larry D. Dowdy

November 13, 2001

Oral Testimony:
St. Louis, Missouri Public Hearing
Revised Draft Environmental Impact Statement
Missouri River Master Water Control Manual
United States Army Corps of Engineers
Northwest Division

Good evening. My name is Randy Asbury and I'm Executive Director of the Coalition to Protect the Missouri River. This coalition represents a diverse group of twenty-eight agricultural, navigational, utility, industrial and business-related entities all of which are, or represent, Missouri River stakeholders. We support responsible management of Missouri River resources and the maintenance of congressionally authorized purposes of the river including flood control and navigation. We also support habitat restoration for endangered or threatened species to the extent that it doesn't jeopardize humans or their sources of livelihood.

The energy impacts of the proposed alternatives have received only a cursory discussion in public hearings to date as compared to the impacts of RDEIS alternatives to agricultural and navigational interests. The implementation of alternatives other than the current water control plan has the potential to be as adverse for energy interests as for anyone affected by river management change.

HPower 2, 18, 21 MoPower 1, 3

President Bush's goal of supplying reliable and affordable energy to our nation's electric consumers cannot be overemphasized and, therefore, must not be overlooked or under analyzed in this public comment period. In fact, any recommendation that merits inclusion in the final environmental impact statement should be analyzed heavily in regard to the President's May 18, 2001 Executive Order 13211 that concerns regulations significantly influencing energy supply, distribution and use. Any alternative that is in direct conflict the President's Comprehensive Energy Policy should be rejected.

There is great concern among Lower Basin utilities that such a conflict may exist with alternatives other than the current water control plan (CWCP). It's also obvious, that consumers receiving electricity from hydropower plants in Upper Basin states may experience an increase in electric rates if these alternatives are implemented. Energy suppliers, distributors and consumers may experience unnecessary and unjustified impacts resulting from lower summer flows that in the end may cost them millions of dollars in new infrastructure investment or rate increases.

Missouri has several energy generating plants that supply energy for both rural and urban customers who use Missouri River water to cool their plants. Ameren, Utilicorp, Kansas City Power and Light and Associated Electric Cooperatives serve several million customers who are dependent on their ability to supply reliable and affordable electricity in the heat of summer or debt of winter. Lower summer flows increase the likelihood of full or partial outages. Such an occurrence during peak summer temperatures when demand is highest could jeopardize the safety of thousands and cause adverse economic consequences to thousands of businesses.

Just this past August, Associated Electric's Chamois plant experienced river water temperatures that came close to restricting operations in order for them to comply with NPDES permit effluent limitations. River flows in August at the Kansas City station measured about 38,000 cubic feet per second with average August releases from Gavins Point of 25,300 to hit navigation targets. August releases were higher than what are predicted in the proposed GP2021 alternative. Obviously, had the flows been lower, Chamois could have had to come offline or reduce generation. The age and size of the Chamois plant make modifications such as cooling towers that address low water events cost prohibitive for Associated to consider.

Several statements were made in the Nebraska City hearing addressing the thermal discharge issue. It's apparent the current flows that are higher than those of the GP2021 already create water temperatures extremely close to the maximum allowed before restrictions occur. Lower flows may exasperate a situation that is already at a threshold

Before I get into my prepared remarks, I would like to say that I am thankful that I live in this country, a country that has a Constitution and a Bill of Rights.

Among these rights are the freedom of speech and the freedon of assembly, which is what we are doing here today.

It also means that we have the responsibility to be truthful, courteous, civil and have a willingness to listen to, and respect the other persons ideas, concerns, and needs.

level. Rural Electric Cooperatives have testified they do not support summer flows below 40,000 cubic feet per second. Clearly, lower flows may jeopardize the ability of suppliers to reliably provide an energy source for the cooling and heating requirements their customers trust them to offer and at a rate they can afford.

Utilities are concerned the Corps has underestimated the potential impacts the proposed flow reductions may have on their ability to meet and comply with current water quality standards. I request the Corps reevaluate this water supply issue to determine with greater accuracy the realistic impacts of the proposed alternatives on energy generation.

WS 11
WQ 2

This nation demands a reliable and affordable supply of electricity to meet its ever-increasing energy needs. Any options recommended for Master Manual management should not curtail or reduce the ability of energy suppliers to meet these energy needs in an economically viable way. At this time, the current water control plan is the only feasible plan that assures utility companies this will be possible.

MoPower
2, 18
HPower 1, 3

Missouri River Master Water Control Manual:
SPRING RISE

Read as Testimony - See pages 137 - 141.

I am opposed to the Spring Rise.

My name is Marvin Meyer. I am a retired farmer from the Black Walnut, Portage Des Sioux area of St. Charles Co. Missouri, which is about 15 miles upstream from the confluence of the Missouri River with the Mississippi River.

I have been a farmer all of my life. My daughter and her husband are on the farm now. It has been a hard, but good, honest, and satisfying life. My farms are more fertile and productive today than they were in Lewis and Clark's time. It was being cultivated and had been surveyed before their journey. It was settled by the Payne and Fallis families in the 1700's.

As far as I know, most of my ancestors were farmers, just as most of my relatives today still are. We were and still are good stewards of the soil. You take care of what takes care of you. We were concerned about, and protected the environment, to the best of our abilities, long before words like environment and conservation were invented.

I believe that some of the changes to the Missouri River have not been the best, but a Spring Rise will only create more problems. I call it "Planned Flooding". The Corps of Engineers are wrong when they say that a Spring Rise will cause little increase in flood frequency or damages. Any time that you inject extra water into a river during prime flood season, without chance of recall or greater protection, you increase flood damages. It takes 10 or 11 days for a release from Gavins Point dam in South Dakota to reach St. Charles, MO. If there are huge rains in the lower Missouri watershed, especially from Kansas City to the mouth of the Missouri, there is no question that the probability of flooding will be increased.

The Corps either doesn't know the facts, is ignoring them, or is trying to appease other groups.

In defense of the Corps, neither they, nor Fish and Wildlife, can do anything without the approval of Congress. It is Congress who sets public policy. It is Congress who provides funding.

And who is Congress? It is us. We elect them. They pass a law. Bureaucrats write the rules, and that is the law, unless it is overturned by the courts. Congress seldom reviews the rules to see that they conform to the intent of the law. Because we, the farmers in the valley, are so few, we are seldom heard.

In April 2001 (Wall Street Journal, 7-10-01) a U.S. Federal Court held that the taking of water for endangered fish in California constituted a clear government "Taking of Property", and that farmers must be compensated. The Fifth Amendment to the Constitution is intended to bar government from forcing some people alone to bear public burdens, which in all fairness and justice, should be borne by the public as a whole.

I call this a "REGULATORY TAKING OF RIGHTS'. I believe that the Spring Rise and the flooding that will surely follow is the same principle.

It is folly to think that we can recreate the conditions of Lewis and Clark's time. It cannot, will not, and should not be done. The memories of the past are always better than the reality.

I did not cause the problem, but I am one of those who will be wronged by the Spring Rise, which I call "Planned Flooding", and will have to pay the consequences. It is my firm belief that this will lead to the eventual elimination of most agriculture from the

river valley.

I am certain that agriculture will be damaged.
It will mean more frequent and disasterous floods.
It will mean more scouring and sand deposits.
It will mean more blow holes and ring levees.
It will mean more farmers going broke from levee rebuilding expenses.
It will mean that someday, the Corps will say that we will not help rebuild your levees because the costs exceed the benefits.

Fish and Wildlife cannot be certain that their ideas will work. What will their next demand be? Will they then have exactly what they want, at absolutely no cost to them?

Neither the Corps or Fish and Wildlife have the emotional or financial interest in the farms that I have. Our soils and farmers are a resource that we cannot afford to discard.

I would have been proud if my grandsons, Sean and Mark, would like to stay on the farm. But I absolutely will not encourage them to do so. I will discourage them because of the constant erosion of our right and ability to farm and make a decent, honest living.

Another wrong will not make a right.

Will my family become an endangered species? Will we receive the same rights and concerns that birds and fish get? Is this what we want? Aren't there better answers?

I believe that we are more important.

Marvin H. Meyer

Marvin H. Meyer

over

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St. Charles, MO 63301
(636)946-9725

Wilmer Erfling
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Hermann, MO 65041

erfling@ktis.net

Read as Testimony - See pages 141 - 144.

I am in favor of the current Water Control Plan ***without*** adaptive management.

I wish to address the following issues:

- Spring rise
  - Interior drainage
  - High ground water
- Reduced summer flow
  - Loss of navigation
- Adaptive Management
  - Lack of balanced input
- Bank Stabilization
- Habitat restoration

I was born and raised with river bottom farming. My father-in-law, who is nearly 80 years old, actually cleared some of this land with mules and grubbing hoes. He has farmed for over 65 years and is still actively involved. We are very familiar with the Missouri River and its ecosystem.

A spring rise causes flooding and high flows, which eliminate internal drainage, cause high ground water and drown crops. The proposed spring rise makes flood control impossible. Rainfalls and inflows from tributaries below the Mainstem, including the Osage River, make it impossible to properly manage releases from the Mainstem dams. Instead of spring rises, this area experiences floods. This past spring, more than twenty percent of the spring-planted corn was lost, even though the levees were not topped. This occurred because of a lack of effective, coordinated efforts between the Mainstem and the Osage Reservoirs management.

If adaptive management is to be considered, flood control must be a part of the decision-making process because of the high economic stakes. Unless all of the stakeholders are permitted to be involved in these decisions, all areas of concern will not heard. Adapted management is not an acceptable consideration because landowners, farmers, private business, navigation, municipalities, and the general citizenry do not have adequate opportunities for input. All of these groups have environmental concerns, and they also have substantial economic concerns.

On my family's farm at mile 94 below Hermann, Missouri we have lost more than 35 acres of land, bottomland forest and sand bars, in approximately one-half mile of river due to high flows. This area was prime river habitat for many species. Due to improper management (dike notching and rock placement) mandated by the Missouri Department of Conservation and "so-called environmental experts" this land is lost to wildlife and to our family. The unproven benefits of a spring rise for endangered species would also have similar, negative effects on other native species and their habits.

The master manual should include provisions for the enhancement of navigation and river terminals. I do not understand how the elimination or reduction of navigation on the Missouri River can even be responsibly considered at this time. The elimination of just one barge tow will put 900 tractor-trailer trucks on our already overcrowded, deteriorating, and unsafe highways. Shouldn't the Environmental Impact Statement be held accountable for damages and changes to air quality, safety, and energy conservation?

Our family farm was settled in 1864, and we are the fifth generation of farmers to reside on it. There is a love and respect for the land that is passed from generation to generation along with the land. The American farmer must be the best conservationist, the most resourceful environmentalist; for it is his livelihood and this country's heritage that he holds. The Historic Preservation Act of 1966 recognized this when it included any farmstead of 50 years or more in its list of eligible sites. We are concerned this Environmental Impact Statement has not given significant attention to the protection of designated historical sites.

No government has the right to purposefully plan for the destruction of the livelihood a group of American citizen or even one citizen. A purposeful destruction will take place under the revisions put forth in this Environmental Impact Statement.

Respectfully submitted

Wilmer Erfling

Wilmer Erfling

Missouri Levee & Drainage Association; director
Warren County Soil and Water Conservation District; board member and district director
US Dept of Agriculture, UM Cooperative Extension Service; board member
Missouri Farm Bureau
Hermann Area Chamber of Commerce
St. Paul United Church of Christ
Gore-Case Community Club
Missouri Department of Conservation
Wildlife Federation

Page 172.

Read as Testimony - See pages 145 - 147.

Jim Holsen
419 E. Argonne Dr.
Kirkwood, MO 63122
(314) 822-0410

ST. LOUIS AUDUBON SOCIETY

Radisson Hotel, 200 N. 4th St. U.S. Army Corps of Engineers,Hearings on Misssouri River Alternatives at St. Louis, November 13, 2001.

My name is Jim Holsen, I am the past ~~vice~~ president of the St. Louis Audubon Society. ~~In the position of president~~ I spoke to the Corps in a similar, ~~[illegible]~~ hearing in St. Louis in ~~[illegible]~~ 1994. I recall ending my remarks with the observation that my wife had applied to the dashboard of her car a saying from a Chinese fortune cookie to the effect that "You are heading in the right direction," and I ~~thought~~ said that described how I felt about the Corps of Engineers. Now, perhaps seven years later, I think the Corps ~~had been~~ is still heading in the right direction, but they ~~were~~ have been diverted by officials in Washington from following the suggestions of the Fish and Wildlife Service, ~~to provide for a spring rise in the flow of the Missouri River~~.

At the time of that earlier hearing I had intended to ~~come to the hearing and~~ argue that the Corps could provide both for environmental restoration of the river and for the traditional navigation or barge interests at the same time. But as I thought through the alternatives, it became clear to me that the two were not fully ~~in~~compatible. A spring rise and lower flows during the summer months ~~did~~ do not fit with the demands of the barge industry, but ~~were~~ are essential to the ecological restoration of the Missouri River.

Jane Höher 11/13/01
p. 2 of 2.

As residents of St. Louis, we frequently cross the Missouri River on the Boone Bridge ~~on Highway 40/I-64~~ or at St. Charles on the I-70 bridge. We almost never see a tow with barges on the Missouri River -- hardly ever. Even the Corps reports that the economic benefits of barge traffic are much less than those of other activities such as recreation~~ on the Missouri River~~. And the economic benefits from recreation can only be enhanced by the ecological restoration of the River. A very high percentage of the tonnage reportedly carried on the river is either rip-rap hauled by the Corps for its own flood control structures or is sand dredged from the river bottom.

The alternatives that provide for a spring rise, such as GP 2021, do not eliminate barge traffic, but do restrict it during the summer months. But those are not peak months for moving commodities to market. And these alternatives actually promote barge traffic on the Mississippi by providing higher flows in the fall months, assisting navigation on the Middle Mississippi between St. Louis and Cairo, Illinois.

The St. Louis Audubon Society has endorsed the GP 2021 Alternative, the alternative that most closely resembles the recommendations of the U. S. Fish and Wildlife Service. I am speaking to second that recommendation. ~~I am glad to see that the Missouri Department of Conservation also agrees with the concept of a spring rise~~. We have an unusual opportunity to repair some of the errors of earlier years, errors which most of us looked upon ~~then~~ at the time as progress, although we know better now. Let us make the most of this opportunity.

And let me add a reminder. If the Corps is going to continue to reach decisions through cost/benefit analyses, it must devise some way to include those real benefits such as wildlife and wildlife habitat, which are difficult to quantify.

U.S. Army Corps of Engineers
Missouri River Master Manual Hearing
St. Louis, Missouri - November 13, 2001

Read as Testimony - See pages 150 - 153.

Good Evening. My name is Robert Neff, and I am Manager of Coal Supply and Transportation for AmerenEnergy Fuels and Services, a subsidiary of Ameren Corporation which purchases coal, oil and gas for use at Ameren power plants. Ameren Corporation provides electric service to 1.5 million electric customers in Missouri and Illinois.

I am here tonight to express concern over the reduced summer flows that will occur in the in the Missouri River under the alternatives plans proposed by the Corps. More specifically, I am concerned about the negative impact the reduced flows in the Missouri River will have on Mississippi River navigation and how that will affect our ability to economically fuel our coal-fired power plants.

Ameren purchases 32 million tons of coal annually for electrical generation at nine coal-fired power plants. This coal moves by rail, barge, and truck. In the past, three of the nine plants had facilities to receive coal by barge. Ameren recently invested millions of dollars to be able to receive coal by barge at two additional power plants on the Mississippi River-the Sioux and Rush Island plants. Also the Meramec plant is being equipped with a rail transfer and barge loading facility to facilitate the movement of coal by barge to other Ameren plants. To accommodate these barge movements, Ameren recently purchased 30 barges.

Considering the large volume of coal that Ameren moves every year, fuel transportation cost is one of our largest expenses. Movement of coal by barge is the most energy-efficient and often the lowest cost method of transportation. One barge can hold the equivalent of 15 railroad cars or ~~200~~ 25 trucks. Replacing one fifteen barge tow with trucks would mean ~~3000~~ 8000 additional trucks on already crowded highways.

Ameren is constantly looking for ways to lower the cost of electricity to its customers, and has continually reduced costs of coal transportation by initiating new options and sources of coal delivery. We knew that the recent construction of barge facilities at our three power plants would help keep transportation costs down and allow us to continue to offer competitive electricity prices to our customers.

Our barge facilities provide us with an additional means to bring fuel into our plants that improves the overall reliability of our generation system. We understand that during periods of drought, Missouri River water accounts for up to 60% of Mississippi flows between St. Louis and Cairo. The heat present during summer-time droughts places a great strain on the electric system, driving electricity demand and the need for coal even higher. However, if the Corps were to select one of the alternatives that further restricts Missouri River flows, our ability to deliver coal to our plants would be limited at a time when the coal is needed most.

In summary, I urge the Corps to act responsibly and refrain from selecting a Missouri River management plan that could hurt Mississippi River navigation. Accordingly, Ameren supports the Current Water Control Plan, as it is the only one of the six that would provide adequate flows for both the Missouri and Mississippi Rivers.

On behalf of the Ameren organization, I would like to thank the Corps for providing me with the opportunity to share our views on this important issue.

MY NAME IS DAVID BONDERER, I OWN A RETAIL AGRICULTURE SUPPLY BUSINESS IN WEST ALTON, MO. AND FARM 2200 ACRES IN THE ST. CHARLES COUNTY RIVER BOTTOMS. I AM ON THE BOARD OF DIRECTORS OF MISSOURI AGRICULTUE INDUSTRIES COUNCIL, MEMBER OF CORN GROWERS, SOYBEANS ASSOCIATION AND REPRESENTING FARMERS IN OUR AREA.
I WOULD LIKE TO THANK THE CORP OF ENGINEERS FOR THIS OPPORTUNITY TO MAKE MY COMMENTS HEARD.
I AM HERE TO VOICE MY SUPPORT FOR THE CURRENT PLAN THAT THE CORP OF ENGINEERS HAS IN PLACE. I BELIEVE THIS IS FAR SUPERIOR TO ANY OF THE FIVE ALTERNATIVES PRESENTED.
ANY PLAN THAT CALLS FOR A SPRING RISE COULD POTENTIALLY BE DEVASTATING TO ANYONE WHO LIVES OR DEPENDS ON THE AGRICULTURAL LANDS ALONG THE RIVER.NORMALLY IN THE SPRING OF THE YEAR WE ARE ALREADY FIGHTING HIGH WATER FROM MOTHER NATURE WE DON"T NEED THE ADDED WATER FROM THE CORP. OF ENGINEERS. WE CANNOT FINANCIALLY WITHSTAND ANOTHER 1993 FLOOD. IF SPRING RISES AND SPLIT NAVIGATION PLANS ARE APPROVED THE NEXT THING ON THE ENDANGERED SPECIES LIST WILL BE THE FARMER.

FC 8

13 NOV 2001

UPPER MISSISSIPPI, ILLINOIS & MISSOURI RIVERS ASSOCIATION

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Missouri Levee and Drainage District Association

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November 13, 2001

U.S. Army Corps of Engineers
Northwestern Division
Attention: Missouri River Master Manual RDEIS
12565 West Center Road
Omaha, NE 68144-3869

Read as Testimony - See pages 159 - 164.

RE: Comments on Missouri River Water Control Plan

Thank you for the opportunity to comment on proposed changes to the Current Water Control Plan for the Missouri River. Our organization is a membership organization that represents those people, businesses and communities who rely upon the rivers and their productive valleys or protection from the rivers' ravages for their livelihoods and their ways of life.

Several aspects of the proposed alternatives for managing the Missouri River concern our membership.

- The proposed *spring rise* would lessen flood protection levels on the Missouri and the mid-Mississippi. a) Increasing spring releases from the Gavin's Point reservoir will increase the river stage, thereby lessening the amount (or height) of existing flood protection. b) Upon their release from Gavin's Point, millions of gallons of water will travel more than 10 days before they reach St. Louis. A large rainfall at any point along the Lower Missouri could result in the river overtopping levees. c) The effects of flooding can be experienced without a levee or floodwall overtopping. Specifically, higher waters lead to increased seepage that creates higher groundwater tables. In agricultural areas, this increase in groundwater and resulting delays in planting or harvesting could cost farmers half their yield. The window for planting, in particular, is narrowly framed by optimum soil temperature and moisture as well as anticipated weather conditions. If high groundwater prevents farmers from planting at the otherwise optimum time, then the government should compensate farmers for their losses.

- We oppose *greater variation in flow rates* because we anticipate it will cause riverbanks to erode more quickly. Fluctuating heights of water, duration of the stage, and rates of flow will scour the banks. The increased erosion will result in more sediment in the river and, in many cases, less levee to protect the valley.

- Changes to Missouri River flows impact a *large geographic area*. a) Communities, individuals and businesses that are located in the mid-Mississippi Valley immediately north of St. Louis and south between St. Louis and Cairo, Illinois closely monitor the weather patterns across the lower Missouri because its flows directly impact their level of flood protection and navigation service levels. b) Increased spring flows and low summer flows, especially in a drought year, could severely limit navigation between Alton and Cairo, Illinois. This stretch of river is critical to commercial activity of the entire Midwest because of the large total tonnage of cargo that moves each year through Lock and Dam 27 at Granite City and other locks to the north. In turn, much of the cargo that moves from the Upper and Mid-Mississippi is funneled to the world market through the Port of New Orleans.

- Lowered summer flows would *limit navigation* on the Missouri River. a) Commercial towing companies estimate that lowering flows to the levels outlined in the alternatives would essentially end commercial navigation on the Missouri River. b) Navigation is critical to the operations of many small- to mid-sized businesses on the Missouri River. Any policy that ends navigation on the river would discriminate against small- to mid-sized businesses. c) Waterborne transportation is also a key element to setting freight rates among multiple modes of transportation. Although north-south trade corridors dominate the Plains States, the east-west capability of the lower Missouri plays a substantial role in keeping bulk commodity freight rates competitive for suppliers to move products that customers can still afford. (In other words, freight rates are a limiting factor that determines whether a product is sold in a timely fashion or stored where it could rot or become outdated.)

- One of our members' largest concerns is the *precedent* the decision making process on this issue could set for other tributaries and situations outside of the river and its valley. a) The Corps of Engineers is mandated to maintain a navigation channel, to assist with flood protection and emergency readiness, and to manage reservoirs for adequate water to produce energy. The Corps also has a fairly new mandate of managing environmental factors to preserve environmental quality and limit its degradation. As an agency, the Corps of Engineers has the technical capability and Congressional authorization to perform these functions. Yet, it appears the Corps is being held hostage by the U.S. Fish and Wildlife Service which threatens to open the Corps to lawsuit on endangered species. b) Last fall we viewed data compiled by biologists that revealed the Current Water Control Plan provides more shallow water and sandbar habitat that is said to be necessary for the least tern, piping plover and pallid sturgeon reproductive cycles, than the flow changes being advocated by the U.S. Fish and Wildlife Service. This example indicates the U.S.F.W.S. places habitat – that would lead to growing numbers of the jeopardized species – as a lower priority than gaining power to determine how the river should be managed. c) Additional data also indicates that activities outside the main channel – and therefore relatively independent of the flow rates and timing – would provide an environment where the species' populations could grow.

In summary, we oppose any revisions, specifically a spring rise and lowered summer flows, which would negatively impact our members on the Missouri and Mississippi rivers.

Sincerely,

Heather Hampton+Knodle
Executive Director

COMMENT FORM
MISSOURI RIVER MASTER MANUAL RDEIS

13 November 2001

Read as Testimony - See pages 174 - 177.

Contact Information:

James J. Nyberg
P.O. Box 50401
Clayton MO 63105

1. **Quality of Life**
* We seek solace and peace in unspoiled nature; walking, boating, fishing, etc.
* We feel responsible to future generations to not spoil the environment we inherited.
* Friends and I have canoed and camped on the Missouri River numerous times.
* We can not go back to the pristine river that Lewis and Clark explored, but we should **do our best to restore the Missouri River to its natural state**.

2. **Missouri River Navigation**
* We canoed on the Missouri River from the Gasconade River to New Haven two weekends ago, watching birds and camping on one of the relatively few gravel bars. In two days we saw only one towboat, pushing two barges. During the same time we saw 32 railroad freight trains along the riverbank during daylight, before losing count.
* On other canoe trips we have typically seen as much Corps of Engineers maintenance traffic as commercial traffic. It would be a laughing matter if it were not so destructive.
* Navigation is a trivial part of transportation along the river and costs us taxpayers plenty.
* Wingdikes and levees channel the current and offer no wetlands.

Navigation should be abandoned.

3. **Wetland and Riparian Habitat**
* The Corps must obey existing environmental law as recommended by USFWS.
* Wetlands are nurseries for fish, birds and other life-forms.
* Wetlands reduce flooding by retarding water flow. Levees raise floodwater levels.
* Wetlands improve **Water Quality** by filtering the water.

Wetlands should be preserved, restored and established.
Dam releases should promote wetland habitat.

GP2021 is the best of the alternatives presentad.

Commercial interests have a right to advocate for their advantage, but please keep in mind that the **river belongs equally to all of us**, the vast majority, so river management should not be biased in favor of navigation and agriculture.

Thank you.

Master Water Control Manual
Hearings
November 13, 2001

Richard W. Stegmann - Lange-Stegmann Co.

My name is RWS, President LSCO a 75 Year old St. Louis Company.

LSCO operates a barge unloading facility at mile 182.7 UMR just north of downtown and south of the confluence of the Missouri and Mississippi Rivers

We are a primarily a supplier of Crop Nutrients for Agriculture, Industrial products and professional turf markets in the Midwest. We also offer barge unloading services dry and liquid products.

My presence here tonight is two fold. First and foremost is the threat to my business should the CORP follow

1

through with any plan to regulate the flow of water coming down the Missouri River other than to maintain its current water flow management practices.

The Missouri River contributes approx. 60% of the water flowing through the St. Louis Harbor daily on the Mississippi River. The "spring rise" is concerning but in St. Louis we are protected by a wonderful flood protection system. Reducing the flow when the water levels are already drastically low in the summer would be a significant cost for river navigation, but more importantly to my company it would cost us hundreds of thousand of dollars to dredge to keep our river dock open and would probably put us out of business. A lost of many jobs in the metropolitan area.

Miss 25

2

As taxpayers we will be funding millions of dollars of additional dredging services to keep the navigation channel open for barge transportation from St. Louis to Cairo. And what advantage is that to aquatic life when it could averted. A chain is only as strong as its weakest link and this St. Louis to Cairo is the weakest link for Central and Northern United States for economical river transportation.

The second reason for being here is for my customers. As LSCO Focuses on Agriculture, a significant amount of our sales go to Ag Supply Dealers that supply to the family farms, which operate in the MO River bottoms. If the CORP alters the MO River flows many of these family farms would no longer exist because of the additional

FC 8

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"spring rise" flooding. These farms were the foundation of our great country.

How many livelihoods have to be ruined so that others can have recreation.

We are facing trouble times ahead in our economy and country in general.
IF IT'S NOT BROKE DON'T FIX IT.
KEEP THE MO RIVER FLOWS AS THEY ARE CURRENTLY.
THANKS FOR THE OPPORTUNITY FOR ME TO EXPRESS MY THOUGHTS

GOD BLESS AMERICA

4

The Huffman-Broadway Group, Inc.
Huffman & Associates, Inc. – Turnstone Environmental, Inc.
2335 Quarterpath, Richmond, TX 77469•281 342 4563
Cjohnson@trnstone.com

September 27, 2000

RE: Critique of Missouri River Biological Opinion

The following comments are on the USFWS Biological Opinion.

Chris Brescia, President
MARC 2000 (Midwest Area River Coalition 2000)
906 Olive St. Suite 1010
St. Louis, MO 63101

Dear Mr. Brescia,

Attached are comments you requested concerning the August 21, 2000 Revised Draft of the Missouri River Biological Opinion (MRBOP) prepared by the U.S. Fish and Wildlife Service (USFWS). John Dentler, Jim Broadway and I reviewed all or portions of the MRBOP received from you and collaborated to prepare these comments.

Despite the short time allowed for this review, it was apparent that there are a number of shortcomings with the MRBOP. Although we are not providing you with legal advice, it appears that certain aspects of the approach taken in the MRBOP may be subject to legal criticism, and perhaps challenge, if pursued in the final report. At times, conclusions are drawn without reference to scientific literature, and others are drawn from unpublished sources or yet-to-be published materials that have not had the scrutiny of peer review. Certain conclusions are drawn from data presented in the MRBOP that the USFWS states are not reliable, while other data that contradict particular conclusions are ignored. Additionally, certain options that would be available to the USFWS are not pursued in favor of asking for radical alterations of current flood control and navigation systems.

Please contact me if you have questions concerning these comments.

Best regards,

Original Signed

Curtis J. Johnson
Vice-President EHS Systems Development
Turnstone Environmental, Inc.

cc: John L. Dentler
Jim Broadway

The Huffman-Broadway Group, Inc.
Huffman & Associates, Inc. – Turnstone Environmental, Inc.
2335 Quarterpath, Richmond, TX 77469•281 342 4563
Cjohnson@trnstone.com

We have reviewed the draft Missouri River Biological Opinion (MRBOP) by the U.S. Fish and Wildlife Service (USFWS or the Service), and offer the following comments.

- The Endangered Species Act (ESA's) Section 7 consultation process is, by law, linked to specific proposed federal actions. In this instance, the Service has linked the consultation process to the U.S. Army Corps of Engineers' (CORPS) Missouri River Operation Plan and Bank Stabilization and Navigation Program. However, rather than identify specific "reasonable and prudent alternatives" to avoid a jeopardy determination, the USFWS apparently aims to use the consultation process itself to develop a number of federal actions (some of which are defined and some of which are not) to achieve "ecosystem restoration" of the Missouri River. The USFWS' 'adaptive management" process (MRBOP at 321) is an open-ended approach to various studies that appears at best to represent an attempt to continue consultation *ad infinitum* and, at worst, to usurp the Corps' role in managing the Missouri River for other uses (e.g. navigation, flood control, etc.). Clearly, the USFWS desires to create what it conceives to be historic river conditions under the name of "ecosystem function." See, e.g. MRBOP at 323 (USFWS regulating through "Agency Coordination Team"). This approach if pursued in the final MRBOP is unlawful. If the USFWS desires additional consultation it may do so only on the basis of reinitiating of consultation rather than using this single consultation to gain continuous control of Missouri River management.

- Throughout the document the USFWS assumes it is ordering the Corps, another independent agency, to undertake the Service's version of ecosystem restoration. The term "shall" is used throughout the final portions of the document. The ESA Section 7 process does not provide authority to the USFWS to direct other agencies on how to implement authority that was delegated solely by the Congress. The Corps may, if it so chooses, not follow the commands and edicts that the USFWS wishes to issue in the MRBOP and the MRBOP would be a more balanced document if the USFWS recognized this fact.

- The ESA Section 7 process is, by law, tied to listed species or adverse modification of critical habitat. However, the USFWS appears to believe that the Congress has amended the Section 7 process to allow consultation on the basis of "ecosystems." This is simply not the case, and the Service's attempts to rewrite Section 7 by referring to hortatory statements found in Section 2(a) of the ESA does not make it so. See MRBOP at 37 (stating that an ecosystem consultation approach is consistent with section 2(b) of the ESA). The USFWS may consult on the effects of the federal action on designated critical habitat. However, the USFWS readily admits that it has failed to identify or designate any critical habitat for the species at issue. While the USFWS apparently does not have enough information to determine or designate critical habitat, it nonetheless cannot resist the temptation to use the Section 7 process to force the Corps to not only manage "critical habitat" but also to manage an entire "ecosystem". ("The Corps shall . . . " undertake various studies to, in essence, determine critical habitat and achieve "ecosystem" features that the USFWS would like to achieve without having identified critical habitat.) (See for example. MRBOP at 342-349).

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- USFWS has lost sight of the legal framework for Section 7 consultations. In essence, the USFWS must determine whether the federal action at issue would "jeopardize the continued existence" of listed species (16 U.S.C. § 1536(a)(2)). Throughout the documents, no framework is provided to determine whether the action would, in fact, "jeopardize the continued existence of the species at issue, the bald eagle, piping plover, least tern or pallid sturgeon. Instead the USFWS makes general and largely unsupported conclusions about the importance of "ecosystem functions."

- Even if one were able to accept the USFWS ecosystem approach to assuring protection of the Species of concern in the MRBOP, nowhere in the MRBOP is there a defense of why this particular river system is sufficient. In fact, the Service presents information to the contrary (that a much larger area would be needed), and then ignores its own research. See MRBOP 102 ("Current wintering areas of the interior least tern remain unknown (USFWS 1990). Least terns of unknown populations/subspecies are found during the winter along the Central American coast and the northern coast of South America from Venezuela to northeastern Brazil (USFWS 1990)." and 107 ("Further, they [Thompson 1982, Jackson and Jackson 1985, Thompson et al. 1997] state that regular immigration for the Gulf Coast population may be an important influence on the dynamics of the interior population of least terns.")

- The USFWS has taken the approach of passing judgment on whether the proposed action would result in the creation of a Missouri River ecosystem of its choosing. Apparently, the Missouri River ecosystem sought by the USFWS is the ecosystem encountered by the Lewis and Clark Expedition of 1805-1806. However, there is no discussion of whether the vastly altered hydrology of the Missouri River's watershed would allow the re-establishment of anything approaching such conditions. Moreover, the Service provides no rational basis for rejecting the proposed actions, other than its desire to achieve a 19th century vision of the Missouri River, to the virtual exclusion of other viable economic activity in the river, such as navigation, recreation, and flood control.

- In many instances, USFWS's conclusions are not supported by the best available science or commercial data. Instead, many conclusions are tautological and not supported by reference to scientific literature. An example is found in the following passage:

  > "Given the importance of shallow water habitat to the maintenance of the aquatic ecosystem, and the large disparity between pre-development aquatic habitat condition and the habitat provided under the current operations and maintenance, the summer and fall habitat needs of the pallid sturgeon and other native river fishes are not being adequately met. They will only be met by a combination of improvements in the main stem reservoir operation to help create sufficient form and function of the river for the survival and recovery of the species." (MRBOP at 272) (Emphasis added).

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No citation to authority is provided and no objective standards are presented in support of this remarkable statement.

- The USFWS largely ignores commercial and recreational fish harvest effects on pallid sturgeon. Although the USFWS could control this source of mortality by enforcing existing laws, it clearly does not intend to exercise this authority. Instead, it appears intent on forcing a sister agency to do the heavy lifting and in so doing radically alter flood control, navigation and many other activities of great import to the Midwest region.

- Although the USFWS concludes that the federal action would not jeopardize bald eagles, it states that there is a need for mature vegetative stands, such as cottonwoods for nesting sites. See MRBOP at 275. On the other hand, the USFWS states that current operations and the action at issue would result in vegetative development on banks and islands, altering habitat features (sand bars) that the USFWS believes important to least terns and plovers. See MRBOP at 278. In other words the two goals appear at odds.

- The USFWS fails to conduct any analysis of the relationship between its "reasonable and prudent measures" to minimize take and its "reasonable and prudent alternative" to avoid jeopardy. For example no analysis is presented from which to determine whether jeopardy would be avoided if such measures as predator management techniques (See MRBOP at 362) or a host of other measures (i.e., the Service's Measures to Minimize Take Numbers 1 through 6 in MRBOP) were implemented. Instead the USFWS seems to conclude, without analysis, that all of the identified measures must be implemented in the name of ecosystem restoration, rather than considering its "reasonable and prudent alternative" to avoid jeopardy.

- The USFWS concludes that the loss of high spring runoff is a major impediment to pallid sturgeon spawning success ("missing environmental cues") See for example, MRBOP at 365); however, there appears to be virtually no data or authority cited upon which to render such a conclusion. Further, according to many sources most fish spawning is triggered by photoperiodicity rather than flow rates.

- Much of the "Reasonable and Prudent Measures" (RPM) section for pallid sturgeon as well as other species is so imprecise and the stakes so high that the Corps will be unlikely to achieve any objectives other than those that the USFWS first blesses. For example, the USFWS states that "[t]he Corps shall avoid annual operational changes that may affect spawning activities and survival of pallid sturgeon." See MRBOP at 367 (RPM 1). The USFWS itself appears to know little regarding pallid sturgeon spawning in the wild as well as conditions affecting juvenile survival. (See for example, MRBOP 133 "Little is known about age and growth of pallid sturgeon.") USFWS statements about sturgeon in the RPM section are imprecise and perhaps incomprehensible because of a lack of credible data upon which the USFWS can determine whether or not jeopardy and, indeed, "take" itself, would occur under a suite of flow regimes. Other RPMs are similarly vague. Although the USFWS directs the Corps to

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engage in public relations efforts with regard to pallid sturgeon it fails to state what the objective of such public relations efforts might be.

- The Incidental Take Statement for pallid sturgeon reflects that the USFWS has no idea of the level of "take" that would sufficiently minimize impacts to pallid sturgeon so as to avoid "jeopardy." See MRBOP at 369 ("The take of pallid sturgeon through habitat modification that results in actual death or injury shall not exceed that level of habitat modification preventing the pallid sturgeon from naturally reproducing, recruiting and surviving in the wild in pallid sturgeon recovery areas except as identified . . . "). The complete lack of understandable guidance underscores that the USFWS is simply unable to give meaningful conclusions as to whether the Annual Operating Plan (AOP) and Bank Stabilization and Navigation Plan (BSNP) results in "jeopardy" to the pallid sturgeon in the first place.

- The MRBOP appears to ignore current actions designed to minimize impact on the listed species. For example, although the USFWS recognizes that navigation is currently suspended during high flows to protect piping plover and least terns and that uniform release rates are implemented during the nesting season (MRBOP at 63-64), these measures are not factored into the MRBOP. On its face such an oversight appears arbitrary and capricious.

- The USFWS acknowledges that least tern populations have been increasing, in fact dramatically so (100 percent increase) (MRBOP at 105-106) and that the recovery goal for the least tern population has been met. Id. However, the USFWS ignores its own findings to determine that AOP and BSNP somehow jeopardize the least tern. Despite the fact that the recovery population number has been met, the USFWS seems to find a black lining in a silver cloud and concludes that subpopulation numbers are not as high as it would like. Such reasoning defies their own recovery document and goal and underscores what appears to be USFWS desire to take control over management of the Missouri River, notwithstanding improving least tern populations.

- The USFWS seems to ignore the fact that a host of measures including habitat conservation and enhancement, predator control, etc. could be responsible for achieving population increases in least terns. See MRBOP at 66. Again, the USFWS seems intent on finding jeopardy so as to take control of Missouri River management despite the fact that the current suite of conservation measures implemented by the Corps and the states has worked to recover the least tern.

- The USFWS has also chosen to ignore the possibility that pollution and contaminant uptake are responsible for impacting the population of least terns saying (at MRBOP 111) "The extent of this impact (*bioaccumulation)*, however, is undocumented." The next three sentences in the paragraph go on to document evidence of contaminants in the population ending with "Allen and Blackford (1997) found 81 percent of 104 least tern eggs collected from the Missouri River exceeded 3μg/g dry weight selenium concentration, the level

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currently considered safe for avian reproductive success." A similar discussion regarding piping plover (at MRBOP 124) states, "…Ruelle (1993) found selenium concentrations in piping plover eggs collected from the Missouri River in South Dakota similar to concentrations known to be embryotoxic in other birds."

- The USFWS acknowledges that it lacks sufficient data and understanding of the pallid sturgeon, (MRBOP at 70) yet has not the least hesitation in stating that current conditions jeopardize the continued existence of the sturgeon populations would occur. The USFWS appears to avoid any meaningful analysis of sturgeon populations in order to reach its "jeopardy" conclusion. Such a conclusion is not supported by the facts and is arbitrary.

- Much of the MRBOP is based on speculation. As a result, conclusions are reached that are unsupported by studies or citation to authority. For example, many suppositions are made regarding the Corps' regulation of reservoir levels and impacts on least terns but citations are not provided to document a chain of causality between the two. MRBOP at 67.

- The USFWS recognizes that least terns nest in recently disturbed sites but appears to discount the likelihood that habitat enhancement measures not involving wholesale changes in flow regimes could continue to improve least tern population status. (MRBOP at 108, stating that least tern nesting occurs in sand and gravel pits and dike fields along the Mississippi River). Similarly, the USFWS recognizes that least terns use side channels for foraging but appears to discount such habitat enhancement as a means to avoid a jeopardy opinion.

- The USFWS in one instance states that least terns are quite adaptable, nesting in parking lots, agricultural fields and gravel roof tops (MRBOP at 109) yet then goes on to state that the least tern is generally restricted to "less altered river segments." (MRBOP at 111). Interestingly, the USFWS provides citation to authority for the former statement but provides no data or citation for the latter proposition.

- With regard to piping plover, the USFWS acknowledges that the northern Great Plains region population has remained stable (3,467 adults in 1991 and 3,284 adults in 1996); notwithstanding this data, the USFWS somehow concludes that piping plovers would be jeopardized by the enhanced river management system now being implemented by the Corps. MRBOP at 117. The Service seems to take the approach that, regardless of what the data may say, and the lack of any rational basis for tying river operations to the population dynamics of the species in question, it desires historic river conditions and intends to use the Section 7 process to bootstrap its desired result.

- The USFWS appears to recognize that ichthyologists and geneticists cannot distinguish the difference between pallid sturgeon and shovelnose sturgeon. See MRBOP at 127 ("None of the studies detected significant genetic differences between pallid and shovelnose sturgeon, but suffered from a lack of complete understanding of the genetics of the scaphirhynchus

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species.") Notwithstanding this information, the USFWS continues to maintain that the pallid sturgeon is a separate species, apparently based on a single yet-to-be published study. See MRBOP at 128 (Sloss et al. (in press)).

- At the same time that the USFWS acknowledges the inherent problem in differentiating the pallid sturgeon as a different species, and accepting that commercial catch data did not commonly discern between pallid, shovelnose and lake sturgeon as late as the mid-1900's (See MRBOP at 137), the Service is willing to accept historical records to estimate both the total population of sturgeon and the portion made up by pallid sturgeon. This approach, without more supporting information, is arbitrary and capricious.

- Much of the USFWS's MRBOP jeopardy conclusions regarding pallid sturgeon appear to be based largely on the conclusion that June and July flows are needed to provide reproductive cues for successful sturgeon spawning. MRBOP at 133. ("Without the increased flows in June and July, combined with water temperatures expected during that period, the cues for pallid sturgeon to spawn *probably* are no longer present under existing main stem dam operations, throughout much of the Missouri River."). The only evidence to support such a conclusion appears to be based on unpublished data that has not had the scrutiny of peer review (See MRBOP at 147 "As water temperature increases to 62-65F (16.7C - 18.3C), pallid sturgeon initiate spawning activity (Steve Krentz, USFWS, pers. comm.)."). In latter portions of the MRBOP, this conclusion is stated without any reservation. See for example, MRBOP at 169. Elsewhere, the MRBOP states that historic pallid sturgeon spawning was in the spring period. MRBOP at 136. The MRBOP also fails to contain evidence that changes in flow regimes will assist in the recovery of the pallid sturgeon.

- It is not clear from the information presented in the MRBOP how numerous pallid sturgeon actually were in the Missouri River system. Moreover, the USFWS recognizes that "[a]bundance estimates for pallid sturgeon . . . were not considered reliable." Notwithstanding the lack of reliable historic information and population status and trends, a jeopardy opinion is somehow reached – apparently based on the fact that the sturgeon's habitat has been substantially altered.

- The USFWS indicates that many states allow shovelnose sturgeon to be harvested and recognizes that illegal and incidental harvest of pallid sturgeon results from both commercial and sport fishing harvest. While the USFWS is prepared to force a disruption of many river-based commercial activities of great economic importance, it does not appear to be poised to stop the unlawful take of sturgeon by sport and commercial fishers. MRBOP at 152. Rather than enforce the law, the USFWS seems intent on forcing the Corps to implement a nebulous public education program and completely altering the beneficial uses of the River system.

- The USFWS seems to confuse recovery objectives (population numbers) with a desire to achieve wholesale ecosystem changes in the Missouri River system. For example the USFWS

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states that a "recovery objective" is the management of reservoir levels "to the benefit of the species." MRBOP at 199. However, the USFWS appears to lack the data and studies to support its Reasonable and Prudent Alternative (RPA) and its RPMs.

- With regard to piping plovers, the USFWS states that piping plover populations increased in 1986 to 1991 and then subsequently declined while fledging ratios returned to normal in 1996 and 1997. MRBOP at 205. Clearly these population fluctuations were occurring notwithstanding AOP and BSNP by the Corps and, further, notwithstanding management measures designed to benefit listed species. These population fluctuations suggest that factors other than the AOP and "artificial" flow regime are influencing piping plover populations. Yet the USFWS appears to ignore this possibility and instead remains steadfast in its conviction that it should be managing the Missouri River ecosystem as it sees fit.

- While the Corps seems to be tasked through the MRBOP to implement major changes in flow regimes that will impact navigation and other uses on the Missouri River, the USFWS appears not to be willing to use its authority to control impacts caused by commercial and recreational fishers (MRBOP at 214, 238) recognizing that the majority of tagged pallid sturgeon were killed in recreational and commercial fisheries, or to control recreational uses that result in the "take" of piping plovers. MRBOP at 237. Again, this result is odd if not arbitrary and capricious.

- While the USFWS identifies hypolimnetic release of cold water as an adverse impact to pallid sturgeon, the Service does not appear to require any corrective action in this regard within its biological opinion. This alternative should be examined in lieu of major changes in flow regimes that will adversely affect navigation, flood control, irrigation and other beneficial uses.

- The USFWS concludes that organic matter shortfalls will continue under the Current Water Control Plan (CWCP) but does not provide any meaningful data or reference point for what levels of organic material are necessary to prevent jeopardizing the relevant listed species or how the federal action may be modified to provide the as yet unidentified level of organic material. MRBOP at 269.

- The MRBOP concludes that shallow water is important to the maintenance of the aquatic ecosystem, and that the summer and fall habitat needs of pallid sturgeon will only be met by returning the river to "sufficient form and function" for survival of the sturgeon. MRBOP at 272. However, the document itself lacks any specificity as to what "aquatic ecosystem" needs would prevent jeopardizing the sturgeon.

- No specific criterion seems to have been developed or used in determining population levels for least terns or piping plover. The Service seems to conveniently ignore that such populations are increasing (100 % in the case of the tern) or have recently increased (piping

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plover). This phenomenon suggests that neither the AOP nor the BSNP is responsible for recruitment variation or population levels of the piping plover.

- Although the MRBOP provides little information in the way of habitat requirements for pallid sturgeon, the USFWS does not hesitate to conclude that BSNP is responsible for perpetuating unsuitable habitat conditions that affect pallid sturgeon. MRBOP at 295. However, no solid analysis of the factors affecting pallid sturgeon is presented, and no evidence is presented to determine what factors, if any, are limiting pallid sturgeon populations.

- Although the USFWS states that "altered environments" are "suspected" to play a "major factor" in hybridization between pallid and shovelnose sturgeon, insufficient discussion and evidence is presented upon which to make any conclusions. MRBOP at 297. Further the USFWS acknowledges that any relationship between navigation structures and habitat alterations are unclear. However, the USFWS then uses this "suspected" relationship to buttress a solid conclusion regarding its "jeopardy" opinion, again, however, based on an ecosystem approach.

- The USFWS concludes that the population viability of the piping plover, least tern and pallid sturgeon are threatened unless operations of the Missouri and Kansas River Reservoir Systems and BSNP are changed. MRBOP at 309. However, the MRBOP never states how the USFWS developed the population viability thresholds. Unless these viability threshold numbers are presented, discussed and evaluated, the MRBOP jeopardy decision is arbitrary and capricious. Instead of discussing the basis for this conclusion, the USFWS jumps to the conclusion that, because it has listed the least tern, piping plover and pallid sturgeon species as threatened or endangered, there is a need for the USFWS to manage the Missouri River ecosystem. Id.

- The USFWS concludes that operations and maintenance of the Missouri and Kansas River Reservoir Systems and the BSNP will result in secondary effects including "transference and homogenization of contaminants." MRBOP at 315. No information appears to be presented in the MRBOP to support such a conclusion.

- The reasonable and prudent alternative presented appears to result in flow levels precluding navigation during much of the year in the Missouri River. However, as the USFWS notes, RPAs must be capable of being implemented in a manner consistent with the intended purpose of the action. It appears that the RPA would prohibit the Corps from achieving some of the purposes of the program, namely navigation and flood control. MRBOP at 316. It appears, therefore, that the RPA is outside the scope of authority delegated to the USFWS under the Endangered Species Act. Further, the USFWS concludes that all of the measures it identifies to restore the "ecosystem" of the Missouri River to historic conditions must be adopted in order to restore the original "form and function" of the river. MRBOP at 317. However the authority vested in the USFWS via Section 7 of the ESA does not include the

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authority to turn back the hands of time to restore the Missouri River, or any other river system, to historic conditions. The ESA includes only the authority to recommend alternatives to prevent jeopardy to specific listed species. As drafted the MRBOP is unlawful as it is outside the Agency's delegated scope of authority.

- The USFWS states that "Species may not need full restoration [of historic River conditions] to pre-project conditions to avoid jeopardy conditions, but sufficient restoration of major missing components of the ecosystem as proposed by the Service and other big river managers to successfully reproduce and recruit [sic]." MRBOP at 319-20. The MRBOP remains problematic in this sense because only the USFWS can say when enough restoration is sufficient because it provides no objective basis for such a determination. Instead the USFWS provides amorphous "ecosystem function" concepts for determining jeopardy conditions and only the USFWS would be in a position to pass judgment on such matters. Id. Aside from its void for vagueness aspect, the Service's conclusory approach and its resulting edicts to the Corps are arbitrary and capricious, and outside the scope of the enabling legislation.

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November 13, 2001

U.S. Army Corps of Engineers
Northwestern Division
Attention; Missouri River Master Manual RDEIS
12565 West Center Road
Omaha, NE 68144-3869

Gentlemen:

We are enclosing, herewith, comments for your consideration concerning the Revised Draft Environmental Impact Statement (RDEIS) which addresses the Master Water Control Manual for the Operation of the Missouri River System and proposed alternatives. Thank you for your consideration in this matter.

Sincerely,

David A. Visintainer, P.E.
President

Position Statement

on the

Revised Draft Environmental Impact Statement (RDEIS)

Relating to the

Missouri River Master Control Manual

By the

MISSOURI RIVER PUBLIC WATER SUPPLIES ASSOCIATION

November 13, 2001

In my capacity as President of the Missouri River Public Water Supplies Association (MRPWSA), I am pleased to provide the following comments for consideration related to the RDEIS for the Missouri River Master Control Manual. The MRPWSA is a volunteer, non-profit organization consisting of sixteen utility members who use the Missouri River as a source of supply for municipal drinking water. Collectively, these members serve four million people in the states of Iowa, Nebraska, Kansas, and Missouri. The MRPWSA conducts studies and research on behalf of its members, provides a forum for information exchange, and presents position statements such as this in an effort to enhance and preserve the value of the Missouri River as a water supply source.

Member utilities of the MRPWSA must be continuously aware of changing conditions with respect to the quantity and quality of river water passing their raw water intakes. Although it is the extremes of flooding and drought which cause the greatest risks to water supply, even minor seasonal fluctuations in river conditions can significantly impact on water treatment plant operations. FC 13

For these reasons, the MRPWSA has concerns related to several of the proposed alternatives and specifically with respect to the major elements of the modified conservation plan. Included in this plan are increased storage and reservoir levels in the upper river basin. This would result in reduced storage for flood control purposes and could worsen flooding condition in lower basin areas, especially during severe flood events.

Maintaining increased water elevations in the reservoirs would also result in lower flows to support drinking water supply and utility operations, especially during summer periods when the Corps proposes to reduce releases to 21,000 to 25,000 cfs in order to maintain minimal navigation service. These low flows during high temperature summer periods will result in significant algae growth and WS 11 MoPower 1

increased treatment problems for public water supplies.

The modified conservation plan proposes a "spring rise" every three or four years beginning in mid-May. Weather conditions during this seasonal period are highly variable and unpredictable. Serious flooding can be generated in lower basin areas over a relatively short period without significant advance warning. Since water releases from Gavin's Point can take ten to eleven days to reach St. Louis, heavy precipitation in downstream areas could aggravate and increase flooding risks already presented by releases for a spring rise. Also, this spring rise would occur when the transport of sediments, nutrients and pesticides is most likely to occur from agricultural areas adjacent to the river, thus impacting on water quality and treatment. FC 8 WQ 28

Thank you again for the opportunity to present these comments for your consideration.

David A. Visintainer
President, MRPWSA

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MEMPHIS, TENNESSEE TRANSCRIPT— NOVEMBER 14, 2001

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MISSOURI RIVER
MASTER WATER CONTROL MANUAL
PUBLIC HEARING
November 14, 2001

BE IT REMEMBERED that the above-styled cause came on for Hearing at The Radisson Hotel, 185 Union Avenue, Memphis Tennessee, at 7:00 p.m., on the 14th of November, 2001, before Colonel Daniel W. Krueger, Deputy Commander, Northwestern Division, U. S. Army Corps of Engineers presiding:

ALPHA REPORTING CORPORATION
Gere M. Rivera, CCR
100 North Main Building
The Lobby
Memphis, Tennessee 38103
(901) 523-8974

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- P R O C E E D I N G S -

HEARING OFFICER: Good evening and welcome to this evening's public hearing on the Revised Draft Environmental Impact Statement for the Missouri River Master Manual. I am Colonel Dan Krueger. I'm the Deputy Division Engineer for the Northwestern Division of the United States Army Corps of Engineers.

Let me introduce some of our Corps team that prepared the Environmental Impact Statement that is here with us tonight. In the back of the room is Ms. Rosemary Hargrave, Roy McAllister over on the side, Mr. John Larandeau, Ms. Patti Lee, Mr. Paul Johnston, Mr. Rick Moore, Ms. Jody Farhat, Ms. Betty Newhouse.

We also have representatives of the Mississippi Valley Division here with us tonight, firstly, Mr. Larry Kilgo and Mr. Don Flowers. Additionally, we have from the Western Area Power Administration, Mr. Jimmy Black. Before proceeding further, do we have any elected officials here this evening that would like to be recognized?

This is the 13th of 14 currently

scheduled public hearings from Helena, Montana down to New Orleans, Louisiana, which we'll conduct tomorrow night. This afternoon we conducted an open-house workshop right here. I hope many of you were able to stop by the studies and displays and pick up hand-outs and talk with the staff. If you weren't, please take a few minutes this evening to visit the displays around the room.

Our agenda tonight will start with a short video, which includes a description of the project, the future of the Revised Draft Environmental Impact Statement and the major impacts. We want everyone to have a common understanding of the RDEIS. Copies of the summary of the RDEIS and hand-outs, as well as the entire document, are available at libraries and project offices throughout the basin. Also you can get a copy by writing to us or off of our website. The addresses are available in the back of the room.

Following the video, I'll give a fuller description of the comment process tonight and then take your comments. We will stay as long as necessary for everyone to be heard. With that, we

can begin with the video.

(Whereupon, the video was shown.)

HEARING OFFICER; Thank you for your attention, and we hope that was informative for those who have read through the entirety of the manual. I'll now bring the hearing session to order. This hearing is being recorded by Gere Rivera at Alpha Reporting Corporation here in Memphis. She will be taking testimony that will be the basis for the official transcript of record of this hearing.

This transcript, with all written statements and other data, will be made part of the administrative record for action. If you are interested in obtaining a copy of the transcript for this session or any other session, you may do that. Persons interested in receiving a copy need to indicate this on one of their cards available at the table by the entrance. Also if you're not on our mailing list and desire to be, please indicate this on the card as well.

In order to conduct an orderly hearing tonight, it is essential that I have a card from anyone who desires to speak, giving your name and

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who you represent. If you wish to make a statement and have not filled out a card, please raise your hand, and we will furnish you with a card. The primary purpose of tonight's session is to help ensure we have all of the essential information that we will need to make our decision on establishing guidelines for future operations of the Main Stem System and that this information is accurate.

This is your opportunity to provide us with some of that information. We view this as a very important opportunity for you to have an influence on the decision. Therefore, I am pleased that you are here with us tonight. I want you to remember that tonight's forum is to discuss the proposed changes in the operation of the Missouri River Main Stem System that are analyzed in the recently released Revised Draft Environmental Impact Statement. We should concentrate our efforts this evening on issues specific to that decision.

It is my intention to give all interested parties the opportunity to present their views on the proposed changes freely, fully,

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and publicly in the spirit of receiving a full disclosure and providing an opportunity for you to be heard regarding the future decision for which we have called this hearing. Anyone wishing to speak or make a statement will be given an opportunity to do so.

As Hearing Officer, my role and responsibility is to conduct a hearing in such a manner to ensure the full disclosure of all relevant facts bearing on the information we currently have before us. If that information is inaccurate or incomplete, we need to know that, and you can help us make that determination.

Ultimately, the final selection in trying to provide this framework for future operations of the Main Stem System will be based on the benefits that may be expected to accrue from the proposed plan, as well as the probable negative impacts, including cumulative impacts. This includes significant social, economic, and environmental factors.

Should you desire to submit a written statement and you do not have it prepared, you may send it to the United States Army Corps of

Engineers, Northwestern Division. The address will be available at the back. The official record for this hearing will be open until the 28th of February, 2002. To be properly considered, your written statement must be postmarked by that date.

Before I begin taking testimony, I would like to say a few words about the order and procedure that will be followed. When we call your name, please come forward to the lectern. State your name and address and specify whether you're representing a group, agency, or organization, or if you're speaking this evening as an individual. You will be given five minutes to complete your testimony, which is the standard we have had at all of the series of workshops.

If you're going to read a statement, we would appreciate it if a copy would be provided to the reporter prior to speaking so your remarks will not have to be taken down verbatim. After all of the statements have been made, time will be allowed for any additional remarks. During the session, I may ask questions to clarify points for my own satisfaction since the purpose of this

public hearing is to gather information which will be used in evaluating a proposed plan or an alternative to it.

Since open debate between members of the audience will be counterproductive for this purpose, I must insist that all comments be directed to me, the Hearing Officer. With the exception of the public officials or the representatives who will speak first, speakers will be given an equal opportunity to comment on a random basis. Please remember you have a limitation of five minutes.

We'll be using a lighted timer. When the yellow light comes on, you have two minutes of time remaining. When the red light comes on, your five minutes are up. No portion of the unused time will be transferred to another speaker. The purpose of this hearing is to permit members of the public an equal opportunity to present their views, information, or evidence.

To allow one speaker to stockpile unused time for others, the result would be the hearing record would be unfairly tainted, and others waiting to speak may be discouraged from doing

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so. I will now call the names of those would have submitted cards beginning with elected officials or their representatives.

First, representing the Governor of Missouri from the Missouri Department of Natural Resources is Mr. Jerry Vineyard.

SPEAKER: Good evening. My name is Jerry Vineyard. I am the River Basin Coordinator for the Missouri Department of Natural Resources. I represent the Department on interstate water issues on both the Mississippi and the Missouri Rivers. Thank you for the opportunity to speak this evening.

Our agency continues to have concerns about the operational changes proposed for the Missouri River and the resulting impacts to the Mississippi. The Missouri River flows into the Mississippi immediately upstream from the second largest inland port in the nation, St. Louis. The stretch of the Mississippi River between St. Louis and Cairo, Illinois is often referred to as the bottleneck reach because it is located between the system of locks and dams and the Ohio River.

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Low flow in this reach can act as a bottleneck for waterborne commerce on the inland waterway system. During periods of low flow in the Mississippi River, the Missouri River provides as much as two-thirds of the water to the bottleneck reach of the Mississippi that supports river commerce and other beneficial uses of the river.

Even though there is a direct link between these two great rivers, the effects of changes to the management of the Missouri River on the Mississippi have received surprisingly little attention in the Master Manual discussion thus far. Although the Corps of Engineers manages these two great rivers independently, they must allow river users in both basins to fully understand how changes to the Missouri River management may affect the reliability of both rivers.

Miss 4,29

Earlier this year, the Governors of eight Mississippi River states, Kentucky, Tennessee, Mississippi, Illinois, Louisiana, Arkansas, Wisconsin, and Minnesota, joined Missouri Governor Bob Holden in requesting that

Other 127

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the decisions on the operations on the Missouri River only be reached with the direct involvement of all of the states that rely on the inland waterway system.

Other 9, 127

They asked that the Corps offer briefings to all the Mississippi River states on the full effect of these proposals, including reasonably anticipated future depletions. The governors also requested that the Corps provide a reasonable, anticipated depletion analysis on the entire Mississippi River System for all of the alternatives that are under consideration, including the Fish and Wildlife Service's proposal found in the biological opinion.

Further, the Corps was asked to not select its "Preferred Alternative" until these analyses and briefings have been completed and the states have been allowed time for meaningful review and input. A copy of this letter is attached to my testimony.

I've also submitted for the record a copy of the strongly worded resolution issued by the Southern Governors' Association opposing any flow management alternatives on the Missouri River

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that would reduce support for waterborne commerce on the Mississippi River, especially in the spring and fall.

Nav 30
Miss 4

All new plans in the RDEIS retain more water in the Main Stem reservoirs at the expense of flow support to the Lower Missouri and the Mississippi Rivers. Large decreases in flow support occur when navigation is not supported on the Missouri River.

Under the MCP alternative, large decreases in flow support occur 40 percent of the time or 40 years out of 100. Our analysis indicates that 75 percent of the time, these cutbacks in flow on the Missouri River coincide with low water on the Mississippi. In other words, 30 out of the 40 years you have this effect.

In contrast, the current water control plan has cutbacks only 9 percent of the time or nine years out of 100, coinciding with low water on the Mississippi River about 78 percent of the time or seven out of nine years. The current Water Control Plan clearly has the greater flexibility in flow support to the Mississippi

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than any of the other plans presented in the RDEIS.

We believe that plans must be evaluated under future water depletion conditions. The MCP plan has not been analyzed with future levels of depletion. If the Corps had analyzed MCP, we would expect that there would be an exponential increase in the magnitude and frequency of low water events on the Mississippi. Consequently, we would also expect the economic impacts to grow exponentially.

During the RDEIS process, the Corps analyzed future depletion scenarios for several plans. The C31 plan is possibly the closest plan to the MCP plan. Under C31, there are four years out of 100 where the entire ice-free period is at the greatly reduced flow level. With 0.8 million acre feet of additional depletion, this rises to seven out of 100 years, and with 1.6 million acre feet of depletion, it rises to eight out of 100 years.

The plan really shows a dramatic change at the 3.2 million acre feet of additional depletions where there would be 25 out of 100

Other 9

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years where there would be substantial flow cuts for the entire ice-free season from April to December. This compares to only eight out of 100 years under the current water control plan with 3.2 million acre feet of additional depletions. I have included a graphical presentation of this in my testimony that shows bars representing periods when substantial higher flow is provided.

Because of this analysis, we call on the Corps to significantly scale back the higher reservoir levels that are embedded in all of the new flow management proposals in the RDEIS in order to provide or to avoid major negative impact to navigation on the Mississippi. Because of the limited amount of time here tonight, I won't go into any detail, but I do wish to touch on a couple more concerns.

Miss 5

First, the Mississippi River economic impacts displayed in the RDEIS are somewhat misleading. Sensitivity analysis performed by the Corps shows that the results can be greatly affected by minor adjustments in the models. The results can also be dramatically changed with the exclusion of one year, 1939. Therefore, any

Miss 30

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conclusions from the data presented should be looked at very, very carefully.

Second, the RDEIS leads one to believe that all five of the new plans are better for water commerce on the Mississippi River, while at the same time indicating a need for increased dredging and changing the low water reference plane, something that in itself should be studied in detail. This seems contradictory to us.

Miss 22

Third, of the five new plans in the RDEIS, the Corps has only analyzed the impact of future depletions on two of the new plans. These plans increase lost efficiency cost by about ten fold over the current water control plan, in other words, about $10 million per million acre feet of additional depletion versus about one million.

Other 9
Miss 5

Finally, we believe that the new higher reservoir levels and the resulting downstream flow restrictions would adversely impact waterborne commerce on the Mississippi River. Last November is an example of where this would have been the case. So I have also attached to my testimony a chart showing the stage at St. Louis under current operations versus the MCP plan.

Miss 4

16

Thank you very much for the opportunity to comment.

HEARING OFFICER: Thank you, Mr. Vineyard.

Mr. Tad Kardis representing the Missouri Attorney General.

SPEAKER: Thank you, Colonel. My name is Tad Kardis. I represent the Missouri Attorney General, Jay Nixon. The Missouri River is flowing by outside our door tonight, or is it? The mighty Mississippi would not be quite so mighty without the Missouri River Basin, which covers about one-sixth of the United States to drain into it. Indeed, the Corps recognizes the relationship between these two great rivers and the effective management these great rivers can have on the people here in the Mid-South. That's why the Corps is here tonight.

What if the Missouri River didn't flow into the Mississippi River Basin or what if -- what if significantly less of it did? The Missouri River is not bottomless. It's a finite resource. The Corps initiated this Master Manual review and update. Upstream states have used

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political clout and party leadership positions to secure the Corps' attention, but science and common sense suggests the Corps should pay closer attention to the threat of depletion and the impact they could have on downstream states under the Master Manual alternatives.

The Corps' analysis of depletion is inadequate. There has been no analysis of depletion whatsoever with respect to the Modified Conservation Plan or MCP alternative. This alternative appears to be a leading contender for the next Master Manual since it's a variation on a theme once backed by the seven of the eight Missouri River Basin Association states. The Missouri River was the lone hold-out primarily because of the impact of depletion on operations under the MRPA alternative.

Depletion of the flow management of the Missouri River are important to the Mississippi River states because the Missouri River provides as much as 60 percent of the Mississippi River's flow at times. A reduction in this flow support to the Mississippi River navigation could be enormously costly, as Mr. Vineyard mentioned, the

Other 9

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reach between St. Louis and Cairo, Illinois, the transportation bottleneck, particularly during low levels.

How does flow management impact the bottleneck? The Missouri Department of National Resources analyzed the MCP's impact on the Mississippi River. As Mr. Vineyard said, it concluded that low flows on the Missouri River will coincide with low water on the Mississippi River at a frequency that translates into an impact on the Missouri River flow, 30 out of every 100 years.

In stark contrast, the present Master Manual impacts the Mississippi River flow only about seven out of every 100 years. Flow reduction could also have disastrous impact on the fish and wildlife on the Mississippi. For example, reduced flow requires more frequent channel dredging. This may affect the endangered pallid sturgeon. The potential for a conflict in the pallid sturgeon and the Mississippi River commerce, like the contentious battle in Alabama and Tombigbee Waterway is more likely under Master Manual alternatives to provide for a low summer

Miss 4, 19

Miss 38

19

flow or split navigation.

The impact of flow management changes could be compounded by future depletion of the Missouri River waters. For instance, the Garrison diversion. Fuel is a rational concern about the logical fact of depletion analysis. It seems like a long way from home, North Dakota. The Garrison diversion is intended to take the Missouri River water to the outside of the basin, and it has been labeled the grand-daddy of wasteful water projects by National Environmental Protection.

Other 9, 172

For years, it was thought to be dead. Reports of its demise have been greatly exaggerated. It has been reincarnated in the Dakota Water Resources Act, a new name, same project. That's not the end of the story. The State of North Dakota has set aside about $382 million from its tobacco settlement proceeds to fund water development projects, and the United States Congress continues to fund these boondoggles as well.

On October 30th, this year, a House Senate Conference Committee approved more than $70 million in funding for the North Dakota water

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project, including twenty-seven and a half million for the Garrison diversion. Yet, the Corps still virtually ignores our concerns about depletions. Under the National Environmental Policy Act, the Corps must consider reasonably foreseeable future developments. We intend to fight the Garrison diversion doggedly, the Corps should conduct a more thorough depletion analysis under NEBA.

Other 9 (con't)

This conflict is not limited to out of basin transfers. There has been a great deal of debate, but the Corps' legal authority to manage the Missouri River to incidental benefit of the Mississippi River, suffice it to say that's just one more thing the upstream states or Missouri did not agree about. The Congress and the Corps plainly agree with Missouri on this point.

Legal 107

First, the authorizing legislation gives the Corps authority to operate the Missouri River Basin reservoir system to support navigation. The Pick-Sloan Plan does not specify that the Corps' authority is limited to supporting Missouri River navigation. Moreover, the Flood Control Act of 1944 speaks about the nation's rivers, not just the Missouri River.

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Second, the government is consistently taking the position that the reservoir should be used to support the navigation on both rivers. The legislative history bears that out. Furthermore, in 1952, a joint working group from the Bureau of Reclamation from the Missouri River Division published a report on the operation of the Main Stem reservoirs.

Legal 108

The report reflected the consensus. The reservoirs are to be operated, quote, to control floods on the Missouri River below Fort Peck dam and to lower flood crest of the Mississippi River and to provide adequate control for navigation on the Missouri River and connecting inland waterways.

It's worth noting that the Corps has relied on the work group's report as recently as 1990. Finally, as Colonel Fastaband said in the video we saw tonight, the Missouri River has managed to provide benefits to the nation, not just the Missouri River Basin.

Thank you for the opportunity to tell you about our concerns about the future of the Missouri and Mississippi Rivers.

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HEARING OFFICER: Thank you, Mr. Kardis. With that ending representatives of elected officials, I move to agency representatives. We have one, Mr. Mike Olson.

SPEAKER: Good evening, Colonel Krueger. My name is Mike Olson. I'm here this evening on behalf of the U. S. Fish and Wildlife Service to issue a brief statement on the RDEIS.

Other 204

Last night in St. Louis, Colonel Fastaband asked the audience members to remember those in uniform serving overseas, and it reminded me of a quote by a president about 100 years ago. He said, short of defending our country in time of war, the one thing each and every citizen of this country should strive for is to leave our natural resources in a better shape than we inherited them. Most people know that's a quote from Theodore Roosevelt. I thought it was appropriate based on the opening comments from last night.

Our agency, the Fish and Wildlife Service has primary authority for oversight of our nation's rarest plants and animals under the Endangered Species Act. The Missouri River is home to the endangered pallid sturgeon and least

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tern and the threatened piping plover. The decline of these species tells us that the river is not healthy for its native fish and wildlife, and that there needs to be a change in its management to restore the Missouri to a more naturally functioning river system.

Congress committed the Federal Government to preventing these extinctions by requiring Federal Agencies to use their authorities to conserve endangered and threatened species. During the last 12 years, our two agencies have been working together to modernize the management of the Missouri River and to help stabilize and hopefully begin to increase and recover populations of these very rare animals.

This new approach was described recently in a document called the "Missouri River Biological Opinion" published in November of 2000. That biological opinion looks at the river as a system and outlines the status of these rare species, the effects of the current operation on them, and most importantly, a reasonable and prudent alternative to the current operation that will not jeopardize their continued existence.

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Our biological opinion is based on the best available science and includes nearly 500 scientific references. In addition, we've sought out six respected scientists independent from the Corps and the Service. These big river specialists confirmed the need to address full management, as well as habitat restoration.

In addition, the Missouri River Natural Resources Committee, a group comprised of state experts on Missouri River management endorses the science in the opinion. The bottom line of this science is that river species require river functions. If you've read the RDEIS or summary document, you understand that the GP alternatives encompass the range of flows identified by the Service as necessary below Gavin's Point to keep the listed species from being jeopardized.

Our agency and the Corps also recognize the importance of some flexibility in management that would enable river managers to capitalize on existing water conditions to meet endangered species objectives without having to go through another 12-year process.

Other management changes identified in

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the Biological Opinion include a spring rise to Fort Peck Dam, improved hatchery operations, restoration of approximately 20 percent of the lost aquatic habitat, intrasystem unbalancing, and an acceptance of an adaptive management framework that would include, among others things, an improved overall monitoring of the river.

In closing, the Service supports the identified goal of the revised Master Manual, which is to manage the river to serve contemporary needs of the Missouri River basin and nation. These needs include taking steps to ensure that threatened and endangered species are protected while maintaining many other socioeconomic benefits being provided by the operation of these dams.

We stand behind the science used in the opinion, and we're confident that the operational changes identified in the opinion and included in the RDEIS as GP alternatives will ensure that these rare species continue to be a part of the Missouri River's living wildlife legacy.

As the video stated, the Missouri is a tremendous river with a significant and revered

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heritage. Unfortunately, our influence has altered this river greatly and changes are needed to modernize and restore health to this river for the people as well. Thank you.

HEARING OFFICER: Thank you, Mr. Olson. George Grugett?

SPEAKER: Good evening. My name is George Grugett, and I'm an environmentalist, so are all of my friends and everyone I know. We're the dumb environmentalists. We don't make the enormous salaries, and we believe that people have a place in the overall scheme of things. I feel like I'm also a creature of habit. This is the third time I have been to a public hearing to talk about changing the Missouri River Master Water Control Manual.

In 1990, some 11 years ago, we filled a large meeting room in the Hilton Hotel near the airport here in Memphis. Everyone was present, and I do mean everyone spoke in strong opposition to the proposed changes to the Master Water Control Plan for the Missouri River. My good friend, Margie Tyler, at that time, the Executive Director of the Mississippi Ports and Harbors

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Association, said it best when she told the Corps of Engineers representative present, and I quote, your plan stinks.

Four years later on October the 6th, 1994, we filled an even larger room at the Holiday Inn in the eastern part of Memphis, again, with everyone present. Everyone spoke in opposition to the proposed changes to the Master Water Control Plan for the Missouri River. Again, my good friend, Margie Tyler, emphatically stated, your plan stinks.

Here we are again at the Radisson Hotel in downtown Memphis. Let me tell you today, your plan still stinks. You know it stinks. I know it stinks, but I'm also pretty sure it's going to be implemented with little or no regard to the economy of this nation.

Other 7

As I told a group in Orlando in 1994, I'm not sure this great nation's economy can survive much more of this type of change. Make no mistake, these proposed changes have very little, if anything, to do with the so-called endangered species. This is about money, recreation money to be more specific.

Other 7

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All six of the alternatives outlined in the Revised Draft, RDEIS, allows for additional water storage in the upstream reservoirs in Montana and the Dakotas to keep them at a higher level that will benefit water recreation. You don't have to be a history professor to know that these reservoirs were not built with taxpayer's dollars for the use of water-skiers, boaters, and fishermen.

Other 7, 9
Miss 4

They were built for flood control and navigation. The fact that water-related recreation has become such a financial windfall for the states of Montana and the Dakotas is great, but we must not sacrifice flood control and navigation on the Missouri and Mississippi Rivers for recreation.

If we continue the trend I see so plainly, we will soon get back to the point where no one has the time to recreate. Everyone will be hard pressed to make ends meet, and water-skiing will not be a priority. Again, although I cannot do it as well as Margie, let me say it again, your plan stinks.

Your current Water Control Plan has

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worked well for all of these years. It still works well. Leave it alone. Go home and go to work. This country has more important things to do. We don't need to be spending time with this kind of foolishness. Thank you very much.

HEARING OFFICER: Thank you, Mr. Grugett. Chris Brescia?

SPEAKER: My name is Chris Brescia. I'm president of MARC 2000, a St. Louis based public advocacy coalition, their agricultural, industrial, transportation, and labor group committed to the long-term modernization of the inland waterway system. MARC 2000 imposes five of the six alternatives especially for that that require range of increased water releases for the GP series in the Gavin's Point dam. A fifth alternative, MCP, transfers too much water from all basin users to upper basin users only. The sixth alternative, CWCP, still provides the best alternative to meet all congressionally authorized purposes, including navigation, flood control, recreation, hydropower, fish and wildlife needs.

Other 6

Adoption of any of the GP plans or MCP would result in: One, the elimination

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of navigation on the Missouri River, a congressionally authorized purpose; two, increased unreliability of the Mississippi River navigation system in one-third more years during low water years than under the current system; three, the loss of as much as 300 million in historic property; four, the loss of over 6,000 Riparian habitats; five, the loss of warm-water fish habitats; six, increased groundwater seepage on agricultural land; seven, increased interior drainage problems in the districts; and eight, reduced flood control value.

Other 9, 48, 148
FC 4

Regardless of the spin others may provide, this issue is all about water and what eventually it will mean for St. Louis and points south. There are anywhere from four to ten million acre foot of water that will never see its way down the river system as it does today under the MCP and GP plans. This is not acceptable.

Other 9, 198

The immediate impact of this will be navigation impacts as your own documentation suggests. Even though it's flawed, it still

Nav 30, 6

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suggests as much as 86 percent of the possibility of the elimination of navigation on the Missouri River. I reemphasize that's a statistical evaluation, not an actual impact evaluation. Anyone with common sense knows that if you eliminate 86 percent of an industry, they are gone.

Nav 30, 6 (con't)

What is still yet to truly be evaluated properly are the impacts on the Mississippi River. That's why I'm here today in Memphis. Just in this past week while many of our stakeholders representing testimony at similar public hearings, as well as we are doing this evening, I was called by a contractor for the Corps of Engineers who was just starting to work on documenting the real impact on the Mississippi River. I had to ask myself what is over there on that board and how does that relate to what we're talking about and what he's doing?

The bottom line is that the Mississippi River is going to receive less water. It's counter-intuitive to believe that the impact analysis that you're presenting to the public today suggests that it's better for the

Miss 4

32

Mississippi River to receive less water. That is probably based on the fact, since I don't know and I don't have the documentation, that in good years there is plenty of water, but in bad years, there is still less water but the averaging out eliminates the real impact.

Miss 4 (con't.)

In 1988 and 1999, if you took those two years and you looked at the business failures that occurred in those two years, those business failures don't show up in your impact analysis because of 100-year averaging. With 100-year averaging, you can eliminate plague in world history. That is not a correct way to present how these proposals are truly going to impact people in the basin.

Other 158, 246

What is surprising is that we're being asked to look at alternatives that are going to yield maybe a $4 million increase in recreation to the upper basin and 164 acres for habitat, new habitats for terns and plovers. This is done at a shift that affects a population basis of 54 million people the length of the Mississippi River and the Lower Missouri River.

Finally, if there is any doubt about the

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future plans that have been alluded to already today, all you have to do is look at the construction program that is being undertaken in North Dakota for the eventual shifting of water from the Missouri River Basin to the Red River Valley in West and North Dakota.

Other 9, 172

Elimination of navigation on the Missouri River will not only affect the one-and-a-half commercial tons on that river, it will also affect 38 million tons. That equates to 42 percent of all of the corn shipped out of the basin, 64 percent of all of the wheat, 51 percent of all of the soybeans, 26 percent of the coal, 50 percent of the chemicals, 47 percent of finished fertilizer, 46 percent of iron, steel, and scrap. Those impacts do not find their way to the flows, but those are real.

Nav 12

Finally, in conclusion, over the last 40 years, the current Water Control Plan has allowed Missouri River navigation to grow until water flow was arbitrarily halted in violation of the guidelines of the current Master Manual. Ever since then, navigation has been in decline.

Nav 51

Could you expect anything less where

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there is total unreliability as to when and what type of water we're going to get? During the same period, recreation grew and thrived in the upper basin states under the current Water Control Plan. MARC 2000 submits that this current Water Control Plan is still the best way for the Missouri and Mississippi basin. Thank you, sir.

Nav 51 (con't)

HEARING OFFICER: Thank you, Mr. Brescia. Richard Opper?

SPEAKER: Thank you, Colonel. I also want to thank your staff with whom we've worked over the years. They have done a great job of working with the people in the basin to try to get us through this Master Manual. It has taken us 12 years so far. Hopefully, we're getting close to the end. I think everyone of us hope that. I'm sure you do.

HEARING OFFICER: Yes, sir.

SPEAKER: I'm Richard Opper. I am the Executive Director of the Missouri River Basin Association, which is a coalition of the states and tribes in the Missouri River Basin. Obviously, it's a difficult task to try to find common ground among states that have such diverse

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interest and cultures and needs from the Missouri River System. That's exactly what we have been trying to do over these past several years, is to find common ground, and it is what we have been largely, not completely, but largely successfully doing.

Let me give you a little bit of history here. At the request of the Corps, the Missouri River Basin Association undertook a massive effort back in 1995 to try to find at least certain elements of a river operating plan that the states and the tribes could support. The last two years of this process, we focussed on the two most difficult issues in our basin, which are related to drought flow management and recovery of the basin's threatened and endangered species, a very, very difficult and controversial issue.

We work very closely with the stakeholders in the basin. We had a series of now four meetings where we brought stakeholders together face to face and discussed the issues with them and let them discuss it with each other. We had smaller meetings with groups of navigators and recreators. We had those with

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water interests. We had fish and wildlife advocates. We had countless board meetings that were negotiation sessions on these elements of the river operating plan that we're trying to come up with.

All of our board meetings were open to the public, of course. The public attended most of these meetings, too. Finally, after this exhaustive effort, we did agree on some elements of the plan that we felt were a good compromise on the drought flow issue, in which we hoped to avoid the jeopardy listing by the U. S. Fish and Wildlife Service. Let me just summarize our plan very briefly here for you.

In terms of the drought flow management, we recommended that if we have another drought of the intensity and duration of the drought of the late 1980s, early 1990s, that the Corps hold back roughly 2 million acre feet more water in the reservoir system than it actually did back in the drought. This is water that could be available and be released downstream later in the drought, but in a droughted out site, we recommend holding back that much water.

Other 198

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In our opinion, this was a fairly modest amount of water conservation. If you look at the data in your book, Fort Peck, for example, under most of your preferred alternatives doesn't get up there at all. The other big reservoirs might end up dropping 40 feet. It's a fairly modest amount of water conservation.

Other 198 (con't)

In terms of endangered species, we had a four-fold approach. We recommended expansion in habitat acquisition in enhancement activity in the basin. We know we need a monitoring program for our basin. We have to know if our efforts to recover them are taking toward our goal. That has to be in place immediately. We recommended a Recovery Committee. The Corps has always had a lot of flexibility in management of the system and always will.

Other 70, 85, 119

Now that the biological opinion is out, we put a name on it. We call it Adaptive Management, and it scares the heck out of people. The truth is the Corps has had that anti-flexibility all along. We felt since you put a name on that, flexibility, now it's probably time to institutionalize a way to make sure that

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the stakeholders and the basins can continue to participate in these discussions. We think a Recovery Committee in our basin would do that.

Other 10

Finally, when it comes to flow, we recommended that the Corps experiment with flows, changes out of Fort Peck reservoir in the upstream states to see if we could provide benefits to the fish and bird species in that 200-mile stretch between the two large reservoirs. We did not recommend flow changes in the lower rivers. That was the most controversial aspect of our plan. We did not recommend the flow changes.

Now, the end, as we've heard, all of the member states, except Missouri, supported our plan, seven of our eight member states supported the plan. The tribes didn't vote one way or the other. They didn't oppose it. After we came up with our plan, the Fish and Wildlife Service issued its biological opinion. We're glad to see the Service adopted every one of our recommendations. I thought that was a good sign.

However, the Service also said they concluded that our plan would not avoid

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jeopardizing the three threatened endangered species in our basin. It said that we did not go far enough environmentally. It said that the changes to the flows in the lower river system are going to be necessary to recover the species in the basin.

Now, we're evaluating, of course, drafting the EIS. All five of the alternatives included recommendations, all five of them. We're happy to do see that. Four of the five, as we heard, included various proposed flow changes in the river system. Let me just point out something to you about these flow changes.

Compared to the spring rise that was proposed by the Corps in 1994, these are relatively benign, the smallest spring rise proposed by the Corps is three quarters as large and lasted about as fifth as long when it occurred. It only occurs about a third as often as the one that the Corps proposed in 1994. It's a much smaller thing.

I think this is reflective in both the Corps' and the Service's efforts to try to protect the use of the river system and the basin. We're

Other A, 6

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appreciative of that. At this point, MRBA still endorses its original plan. We're still evaluating the flow changes. In our mind, we haven't made a decision or made a decision where we stand on those.

If it proves to us that these changes do more than -- accomplish more than doing no harm but they actually do some good for the species, without harming or eliminating the existing use of the river system, we'll probably consider those anyway. That's all I have. Thank you very much.

HEARING OFFICER: Thank you, Mr. Opper. Dan Irvin?

SPEAKER: Hello, Colonel. My name is Dan Irvin. I work for Ingram Barge Line. I'm an active pilot working on the river up and down St. Louis down to New Orleans and on the Upper Mississippi River above St. Louis. I've watched your plan, and I've listened to what you proposed. I don't see any way that it's fair and equitable. You all talk about fair and equitable, but it seems to me you're wiping out one industry to save another or give benefits to another.

Nowhere have I seen you address or take

Other 9
Miss 4

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1 into account the safety issues when you start
2 talking about groundings and breaking up tows and
3 the navigation interest. You all keep talking
4 about water and waterborne traffic and all of this
5 good stuff, but nowhere has anybody talked about
6 the impact of dangerous cargo being spilled in the
7 river due to reduced flows from St. Louis down to
8 Cairo. In that respect, I don't think your plan
9 is fair and equitable at all. That's all I have
10 to say. Thank you.
11 HEARING OFFICER: Thank you, Mr. Irvin.
12 Bill Stegbauer?
13 SPEAKER: Good evening, Colonel, other
14 members of the Corps. I would like to thank the
15 Corps for this opportunity. My name is Bill
16 Stegbauer. I'm the President of Southern Towing
17 Company based here in Memphis, Tennessee. We
18 operate towboats and barges on the gulf,
19 intracoastal waterways, and the inland waterway
20 system, including the Missouri River. We employee
21 over 200 people.
22 Tonight I'm here to express our
23 company's concerns with the alternatives presented
24 in the RDEIS. Construction of the dams from the

Miss 5

42

1 Missouri River and the locks and dams on the
2 Mississippi River were begun in the 1930s.
3 Congress mandated a nine-foot channel to move
4 agricultural products in a cost-effective manner
5 from the land-locked Mid-West to the coast and
6 the export markets.
7 Before these rivers became a reliable
8 third coast, farmers were held hostage to high
9 rail rates. Farm income was often devastated by
10 these high rates. With the construction of the
11 water super highway, low cost transportation
12 became available, and rail was forced to compete
13 with business. This phenomenon, otherwise know as
14 water-propelled rates, saved shippers in the
15 region between 75 to $200 million per year in
16 decreased rail and truck rates when forced to
17 compete with the Missouri River.
18 Our industry is disappointed these
19 numbers are not proportionately evaluated for the
20 immediate, real regional economic benefits or
21 costs. We call on the Corps to correct their
22 methodology that fully reflects the economic
23 hardship to regional base without river
24 navigation. The Corps has underestimated flow

Nav 8

43

levels needed for minimum service. The flows used in the study are pre-1993 flood needs.

Over 100 dikes have not been repaired since the 1993 flood, increasing the amount of flow needed for minimal service of several thousand kcfs. We call on the Corps to adjust these numbers to fit reality and a congressional mandate to support navigation. The ability to ship by barge also mitigates major air pollution problems in the St. Louis area and surrounding areas.

Nav 5

Nav 23

As a non-attainment zone, the region already faces heavy scrutiny from the EPA. If barge traffic no longer existed on the Missouri River, a reasonable expectation of the split navigational proposals up to one-and-a-half million tons of commodities would be forced to rail or truck. If this tonnage were shifted to truck, almost 40,000 more trucks would move through St. Louis yearly.

This does not consider tonnage that would have to move off of the Mississippi River due to decreased reliability. The RDEIS does not indicate that the Corps has evaluated increased

Miss 39

44

costs due to appreciably increased air pollution to the potentially increase in fatalities on our roads or the cost of increased road and bridge construction.

Nav 6, 23

Our company would request that the Corps consider the environmental cost of this mobile shift. The impact on the Mississippi River are unknown at this time or grossly underestimated. The Corps has either not evaluated, considered, or released information of the following: One, the Corps and the Missouri Department of Natural Resources split navigation, otherwise known as low summer flows, would render the Mississippi River unreliable at least 27 out of 100 years.

Miss 4

How will this impact the nation's economy and the American farmer? Will agricultural exports still be able to be competitive in the world market? The spring rise, otherwise known as the plan spring flood, would vacillate in a short period of time the water levels of the St. Louis harbor. There is no evaluation of how fast the St. Louis Corps District could dredge the harbor. What are the costs?

Miss 29

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Three, the depletion analysis fact sheet initially misstated that GP2021 would save the nation ten million when, in fact, it would be a $10 million cost. How many more mistakes are there in the RDEIS that we have not been able to locate? The Corps has not allowed appropriate time for stakeholders to evaluate these documents.

Other 24

Four, with low summer flows, how would the unreliability of the Missouri, the Mississippi, and the Illinois Rivers impact our national security? The Department of Defense relies or our river system to move supplies during peace time and war time.

Miss 4

Five, why are shippers increased costs not included in the economic cost?

Nav 65

Six, why is the methodology used to evaluate recreation and navigation different? How can we compare apples to oranges?

Other 159, 210

We request the Corps reevaluate their economic analysis. The study must reflect a true impact to the entire nation. The waterways industry desires to provide the nation with the safest most environmentally friendly and cost

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effective form of transportation.

We request the Corps and the U. S. Fish and Wildlife Service to reevaluate the biological opinion, the RDEIS, and look for ways to balance all of the basins equally. Sufficient water flows for navigation in the Missouri and Mississippi can be maintained while improving habitat for threatened and endangered species.

Other 204
Miss 4

Habitat restoration in concert with current flow is dictated by the current Water Control Plan to find such a balance. Adaptive management, an ingredient of all the options, would disenfranchise the stakeholder. It also is illegal under the NEPA.

EnSp 26
WRH 6

Legal 109

We strongly urge the Corps to choose the current water control plan as its preferred alternative and work to create habitat for threatened and endangered species in a way that does not endanger America's economic prosperity, the American farmer, and the environment. In summary, we remain strongly opposed to any changes to the Missouri River reservoir operations that would jeopardize the Missouri River or Mississippi River navigation. Thank you.

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HEARING OFFICER: Thank you, Mr. Stegbauer. Harvey Sanner?

SPEAKER: Thank you. Hello, Colonel. Good to see you again. My name is Harvey Joe Sanner. I live at Dezarc, Arkansas. I'm President of the Arkansas Waterways Association. I was asked to be here today to represent the Arkansas Waterways Commission as well in that our director could not be here today.

I didn't prepare a written statement, but if you wouldn't mind, if you would take Mr. Rasha's and Mr. Jordan's statement and Xerox those, I'll sign them for you because that's basically what I wanted to say when I came over here.

I haven't been a waterway enthusiast all that long, but I have been around long enough to know what it does mean to our country and how terribly underutilized it is. What I see in these alternative plans, the way the Missouri River is operating now, instead of increasing the use of the waterways, we're talking about decreasing, and that's something contrary to what we ought to be doing.

Nav 51

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As a matter of fact, if you go to Europe now, you see a major effort by the environmentalists to utilize waterborne transportation more so. In this country, our environmental community seems to think it makes good sense to decrease the use of waterborne transportation.

This past year the Arkansas legislature, for the first time, seemed to recognize the hidden treasure we have had for about 1,000 miles of navigable waterways in the state and passed legislation that will establish a fund for the local communities in partner with the state and invest in waterway infrastructure development. It was not funded. That's going to be our goal next year.

I say that to make a point. Finally, finally, Arkansas is waking up and seeing what is happening to surrounding states that have made an investment in their waterway infrastructure. When the gentlemen mentioned about not being able -- the methodology now doesn't recognize the impact, I would mention that on a port harbor tour two weeks ago with the Arkansas Waterways Association

in Ft. Smith, we took the Ft. Smith Harbor, went into Muskogee port.

Now, that's a bonanza everybody in America that states this issue should see. At Ft. Smith, it's not all that much to look at. One or two barge loads a week may be unloading, but the important thing was from that one barge load of steel being unloaded in Ft. Smith, Arkansas, there were 800 jobs created because that facility is there. Four hundred of those jobs are 80 miles away at a tire plant.

So I think a lot of times many of us overlook the real benefits from waterborne transportation. That's a glowing example. I won't be here long. I know you have a lot of people to hear from, but first of all I think what I have always heard and have been told -- I have been a farm activist for a long time, but what Congress always tried to do was do no harm.

Other 6

I think we would be well-advised to look at that, and take that advise in hand. It seems like to me you have a plan -- the plan you have now would service the country much better than any of the alternatives that I have studied. Thank

you very much.

HEARING OFFICER: Thank you, Mr. Sanner. Randy Richardson?

SPEAKER: Colonel, good to see you again. Ladies and gentlemen, my name the Randy Richardson. I am the Deputy Director of the International Port of Memphis. Like George, I have been here three times over 11-and-a-half years. This is one of the first things I got to do when I was hired at the Port of Memphis. I'm here today on behalf of Don McCrory, our director, who could not be here to read a statement for him.

I want to express our appreciation to the Port of Memphis for the opportunity to again present our view on the Revised Draft Environmental Impact Statement. I'm confused by what part of leave the existing plan alone is not understood. I will submit for the record my comments.

I have attached copies of a letter to the President of the United States from the Southern Governors' Association dated February 20th, 2001, and a copy of the Missouri Flow Management Resolution passed by the same

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Southern Governor's Association on February 27th, 2001. Don Sundquist, Governor of the State of Tennessee has signed and approved both of these documents.

The Port of Memphis, through the Memphis and Shelby County Port Commission, has followed this situation for many years and finds that we still arrive at the same conclusion as when we first began looking at the operating plan. The Port of Memphis believes that the Current Water Control Plan for the operation of the Missouri River is still the best.

Other 6

It satisfies all of the federally authorized purposes of flood control, navigation, hydroelectric power, fish and wildlife, and recreation. We recommend that none of the other five alternatives be implemented to change the current plan of operation.

After all of the study, analyses, and money that has been expended on this subject, I am concerned that the true result has still not been presented. I trust that this nation and our waterways' interest, which include everyone that has an interest, does not arrive at another

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situation like the Upper "Mis" Study.

That is not good for any of the parties involved, but once again, it appears that the models employed are not working. We trust that this has not gotten to be a turf battle of who is in charge. This nation's waterways are the concern of all of its citizens, whether they realize it or not.

Nav 51

The waterways function as a system and the individual segments must be separated from the whole. In this case, the Missouri River influences the performance of the Mid and Lower Mississippi, which, of course, influences the Upper Mississippi and Ohio.

The Port of Memphis has reviewed the points made by representatives of MARC 2000 and agrees with their key points and their explanation of those points. Since I am confident this body has a copy of the comments made by MARC 2000, I will not attach them to this statement.

It is the hope of the Port of Memphis that a conclusion to this issue can be reached. It is further our recommendation to continue the present plan of operation of the Master Water

Other 6

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Control Manual on the Missouri River. Also, I would like to briefly read into the record a letter from the Rosedale-Bolivar County Port Commission, Rosedale, Mississippi, from David Work.

The Rosedale-Bolivar County Commission does not support any changes to the current Water Control Plan. Too much is at stake for all parties involved to start making changes to this plan that could jeopardize commerce on our inland river system.

Other 6

With cargo tonnage projected to double by the year 2020 and with the navigable river system being the lowest cost per ton mile, most favorable environmental transportation systems with sufficient capacity for growth, it is imperative that we maintain and/or improve water flows to the Mid to Lower Mississippi River system.

We appreciate the opportunity to offer this statement. Thank you very much.

HEARING OFFICER: Thank you, Mr. Richardson. Rob Rash?

SPEAKER: Colonel, you're a very patient

54

man.

My name is Rob Rash. I'm Chief Engineer with the St. Francis Levee District headquartered in West Memphis, Arkansas. Our district is located in Eastern Arkansas, and we are the local cooperation organization for the St. Francis Basin Project and Mississippi River and Tributaries Project in Northeast Arkansas.

Our district maintains 160 miles of mainline levee on the west bank of the Mississippi River beginning at the Arkansas/Missouri state line and extending to the mouth of the St. Francis River. We also have 75 miles of tributary levees along the St. Francis River. We are involved in the movement and control of water surface runoff of 4.8 million acres of farmland, industrial, commercial and residential development, and upland runoff each year.

We are funded totally by taxes paid by people we protect. We are strongly opposed to any changes in the current plan of operation of the Missouri River. We are downstream from Cape Girardeau, Missouri and directly and adversely affected with any flooding that occurs on the

FC 8, 12

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Mississippi River.

In 1993, if it had not been for our district, our levee system, and other features within the district in cooperation with the Corps, water from the Mississippi River would have flowed through our area for 150 consecutive days beginning in April going through most of September.

FC 20

To receive any additional waters would have been an unacceptable situation for our taxpayers. Our levee system was never in danger of breaching, but additional waters would have continued to put more pressure on an already saturated levee creating an undesirable situation. Also, from September through February, we experienced low river levels, which makes river transportation difficult and sometimes impossible.

Because the U. S. Army Corps of Engineers took control and has the responsibility of improving navigation, flood control, and drainage on the Mississippi River and its tributaries, the river transportation has been greatly enhanced in our area, but decreasing any

Nav 11
Miss 5

56

flow coming across the Memphis area would greatly negatively affect the river transportation.

Our district also has thousands of acres of unprotected farmland. This farmland is on the river side of the levee and is some of the finest cropland in the Delta. Any change in the current plan of operation of the Missouri River would destroy the productivity of this unprotected farmland and the livelihood of hundreds of farmers.

FC 8

Thousands of taxpayers in seven counties are protected by our levee system. The safety and welfare of those people and many others is dependent upon our levee system working properly. We are strongly opposed to any plans that would cause our levees to be jeopardized in any way. Our citizens' welfare, safety and the investments they have already made in our district and up and down the Mississippi and Missouri River are far more important than the least tern, pallid surgeon, or piping plover.

Other 6, 248

I must remind you that those who advocate these changes, the reservoirs and the improvements which have been made on the

Mississippi River and the Missouri River, were authorized by Congress for the benefit of flood control, drainage, and navigation.

The environmentalists, the conservationists, and other such entities have reaped many benefits from these reservoirs, any improvements made by the Corps of Engineers on the two rivers. We do not want to circumvent what Congress has authorized and justified to the taxpayers of this nation.

Other 6

We are at the point in our nation that we must explore every possible means of reducing our dependency upon foreign oil markets. We need to utilize anything and any mode of transportation, which is more economical than our highways. Waterborne commerce and transportation is far more economical for moving goods throughout the heartland of our nation.

Nav 23, 49

It is much more environmentally acceptable than the many emissions that come from our trucking industry, and it is the safest means of transportation that we have. We need to look to improve our waterway infrastructure and not be

looking for ways to discourage development of those assets. We need to improve and grow and construct more hydroelectric plants on the river, not less.

HPower 22

We believe it is time to quit holding these hearings, time to quit studying the changes to the Missouri Master Water Control Plan. I believe it's time to wrap the changes to the Master Water Control Plan up and look for ways to further improve the facilities that we have on the two great rivers of our nation. Thank you.

HEARING OFFICER: Thank you, Mr. Rash. John Crivello?

SPEAKER: Good evening, Colonel Kruger. Thank you for having this hearing in Memphis. I'm John Crivello. I work for Ingram Barge Company in Paducah, Kentucky. I'm a veteran of 30 plus years as a crew dispatcher on the nation's inland river system. I have experienced and observed high water, low water, ice conditions, and all of the smooth sailing in between. So why would adjusting the flows on the Missouri River conducted by a new Master Control Plan cause me fear?

I'm not a hydrologist. I might be an

59

environmentalist. My office at Ingram Barge Company in Paducah overlooks the confluence of the Tennessee and the Ohio River. This is where I, along with four other crew dispatchers, coordinate the movement and pay wages for over 950 of the nation's finest inland merchant mariners. It's apparent to me from the beautiful vantage point in Paducah that the nation's rivers are integrated in a magnificent God-given system encompassing some 22,000 navigable miles, including the mighty Missouri River.

I have a special appreciation of that river. I attended a small college between St. Joe, Missouri and Kansas City for four years. Therefore, the plan for the flow of one river must reflect the impact on all of the rivers. If holding back water on the Missouri River is going to choke off the Mississippi from St. Louis to Cairo in times of low water, navigation could cease. The Nike ad won't work. We can't do it. We have no water.

Miss 5

This causes me some real fear. I'll become the crew dispatcher sending crews home to the unemployment line. I'd tell farmers and

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manufacturers to put the added tonnage in trucks and railcars. I'd tell mom's and dad's on vacation all of the added weights and rail crossings and added trucks on the highways is a result of the loss of the 9-foot channel for navigation between St. Louis and Cairo. This was done by design.

We certainly don't want this tremendous amount of added tonnage off of the water and on the already overburdened rail and highway system. It really causes me some fear. We seek a balanced approach, including navigation, for commerce and pleasure craft, flood control of thriving natural habitats, water quality, and national security.

Nav 6, 23

We need to maintain and improve what we have and not let one segment of the region choke off another. We want you to consider the impact on all of the rivers by keeping the current Water Control Plan. Thank you very much.

HEARING OFFICER: Thank you, Mr. Crivello.

We have no further cards that have been submitted. Is there anyone else who wishes to

testify this evening? If there are no further comments, this hearing session is closed. I would remind you that the hearing administrative record will be open again until the 28th of February, 2002 for anyone who wishes to submit by written fax or electronic comments. Again, if you want to be on our mailing list to receive a copy of the transcript, you need to fill out one of the cards available at the table by the entrance.

Ladies and gentlemen, I thank you very much for being here tonight and showing your interest and most importantly for providing us with very valuable information, which I can assure you will be considered in making a decision on the Master Manual Plan to select for the Missouri River Main Stem System operations framework.

Personally, it has been a pleasure to come back to Memphis to see so many old friends and acquaintances. I appreciate you having come out tonight to provide your input with respect to our work here. Thank you very much, again, for coming, and please drive home safely.

(Whereupon, the hearing was concluded at 9:10 p.m.)

C E R T I F I C A T E

STATE OF TENNESSEE:

COUNTY OF SHELBY:

I, GERE M. RIVERA, Shelby County, Tennessee, CERTIFY:

The foregoing proceedings were taken before me at the time and place stated in the foregoing styled cause with the appearances as noted.

Being a Court Reporter, I then reported the proceeding in Stenotype, and the foregoing pages contain a true and correct transcript of my said Stenotype notes then and there taken.

I am not in the employ of and am not related to any of the parties or their counsel, and I have no interest in the matter involved.

I further certify that in order for this document to be considered a true and correct copy, it must bear my original signature, and that any reproduction in whole or in part of this document is not authorized and not to be considered authentic.

WITNESS my signature, this the ____ day of _____, 2001.

_____
GERE M. RIVERA, CCR

_____

Notary Public At Large
for the State of Tennessee
My Commission Expires:

1 C E R T I F I C A T E

2 STATE OF TENNESSEE:

3 COUNTY OF SHELBY:

4 I, GERE M. RIVERA, Shelby County, Tennessee, CERTIFY:

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12 reproduction in whole or in part of this document is not authorized and not to be considered

13 authentic.

14 WITNESS my signature, this the 28th day of November, 2001.

15

16

17 GERE M. RIVERA, CCR

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20 Notary Public At Large
for the State of Tennessee

21 My Commission Expires:

22

23

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ALPHA REPORTING CORPORATION
(901) 523-8974

TESTIMONY TO THE U.S. ARMY CORPS OF ENGINEERS ON THE MISSOURI RIVER MASTER MANUAL RDEIS
BY: JERRY VINEYARD
RIVER BASIN COORDINATOR
MISSOURI DEPARTMENT OF NATURAL RESOURCES
Memphis - November 14, 2001

Good evening, my name is Jerry Vineyard. I am the River Basin Coordinator for the Missouri Department of Natural Resources. I represent the department on interstate water issues on both the Mississippi and Missouri Rivers. Thank you for the opportunity to speak.

Our agency continues to have concerns about operational changes proposed for the Missouri River and the resulting impacts to the Mississippi River. The Missouri River flows into the Mississippi River immediately upstream of the second largest inland port in our nation – St. Louis. The stretch of the Mississippi River between St. Louis and Cairo, Illinois is often referred to as the "bottleneck reach". Located between the system of Locks and Dams and the Ohio River, low flow in this reach can act as a bottleneck to waterborne commerce on the inland waterway system. During periods of low flow in the Mississippi River, the Missouri River provides as much as two-thirds of the water to the "bottleneck reach" of the Mississippi supporting river commerce and other beneficial uses of the river.

Even though there is a direct link between these two great rivers, the effects of the changes to the management of the Missouri River on the Mississippi River have received surprisingly little attention in the Missouri River Master Manual discussion. Although the Corps of Engineers manages these two great rivers independently, they must allow river users in both basins to fully understand how changes to Missouri River management may affect the reliability of both rivers.

Earlier this year, the governors of eight Mississippi River states (Kentucky, Tennessee, Louisiana, Mississippi, Illinois, Arkansas, Wisconsin, and Minnesota) joined Missouri Governor Bob Holden in requesting that decisions on the operations on the Missouri River only be reached with the direct involvement of all the states that rely on the Inland Waterway System. They asked that the Corps offer briefings to all the Mississippi River states on the full effects of these proposals, including reasonably anticipated future depletions. The governors also requested that the Corps provide a reasonable anticipated depletion analyses on the entire Mississippi River system for all alternatives that are under consideration including the Fish and Wildlife Service's proposal found in the Biological Opinion. Further, the Corps was asked to not select its "Preferred Alternative" until these analyses and briefings had been completed and the states have been allowed time for meaningful review and input. A copy of this letter is attached to my testimony.

All new plans in the RDEIS retain more water in the Main Stem Reservoirs at the expense of flow support to the lower Missouri and Mississippi rivers. Large decreases in flow support occur when navigation is not supported on the Missouri River. Under the MCP alternative, large decreases in flow support occurs 40 percent of the time (40 out of 100 years). Our analysis indicates that 75 percent of the time, these cutbacks in flow on the Missouri River coincide with low water on the Mississippi River (30 of the 40 years). In contrast, the Current Water Control Plan cutbacks 9 percent of the time (9 out of 100 years), coinciding with low water on the Mississippi River about 78 percent of the time (7 of the 9 years). The Current Water Control Plan clearly has greater reliability for flow support to the Mississippi River than any of the other plans presented in the RDEIS.

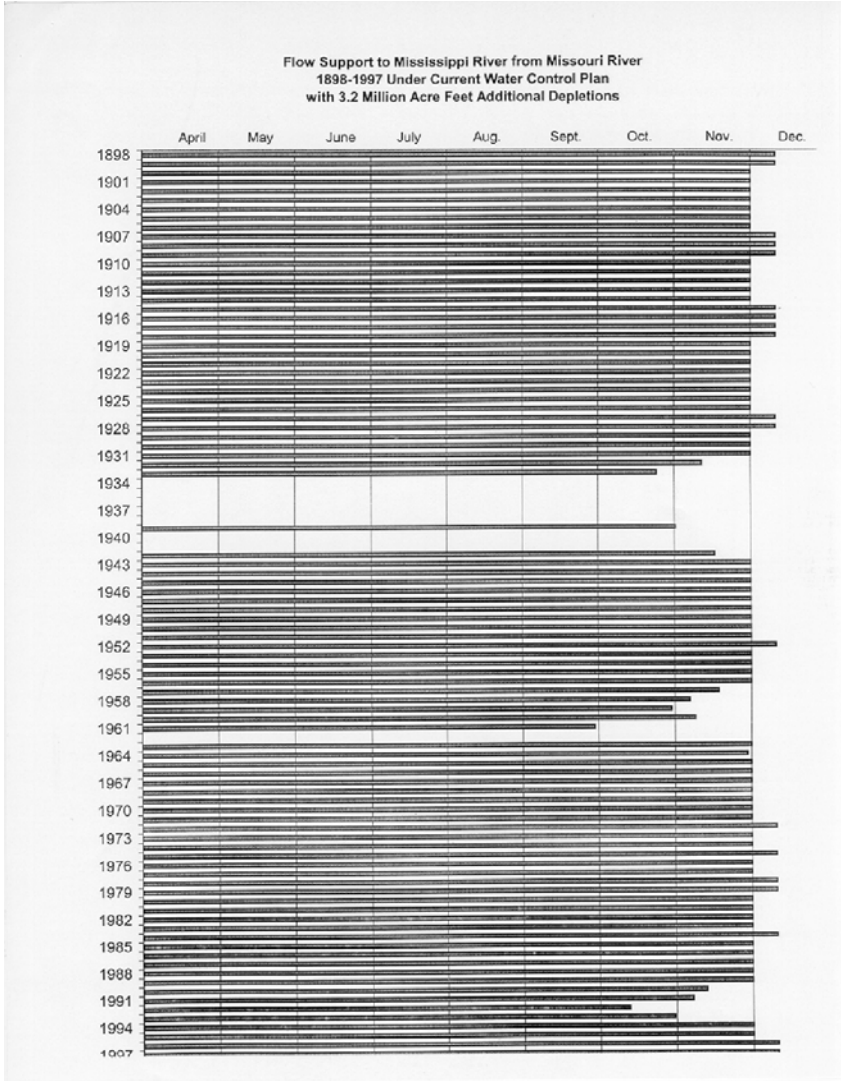
We believe that plans must be evaluated under future water depletion conditions. The MCP plan has not been analyzed with future levels of depletions. If the Corps had analyzed MCP, we would expect that there would be an exponential increase in the magnitude and frequency of low water events on the Mississippi River. Consequently, we would also expect the economic impacts to grow exponentially. During the PRDEIS process the Corps analyzed future depletion scenarios for several plans. The C31 plan is possibly the closest plan to the MCP plan. Under C31 there are 4 years out of 100 where the entire ice-free period is at the greatly reduced flow levels. With 0.8 MAF of additional depletions, this rises to 7 out of 100 years and with 1.6 MAF of additional depletions, this rises to 8 out of 100 years. The plan really shows a dramatic change at the 3.2 MAF of additional depletions, where 25 out of the 100-year period has substantial flow cuts for the entire ice-free season (April to December). This compares to 8 out of 100 years under the Current Water Control Plan with 3.2 MAF of additional depletions. A graphical representation has been included for C31 and the Current Water Control Plan (CWCP) with future depletions added. The bars represent periods when substantially higher flow support is provided.

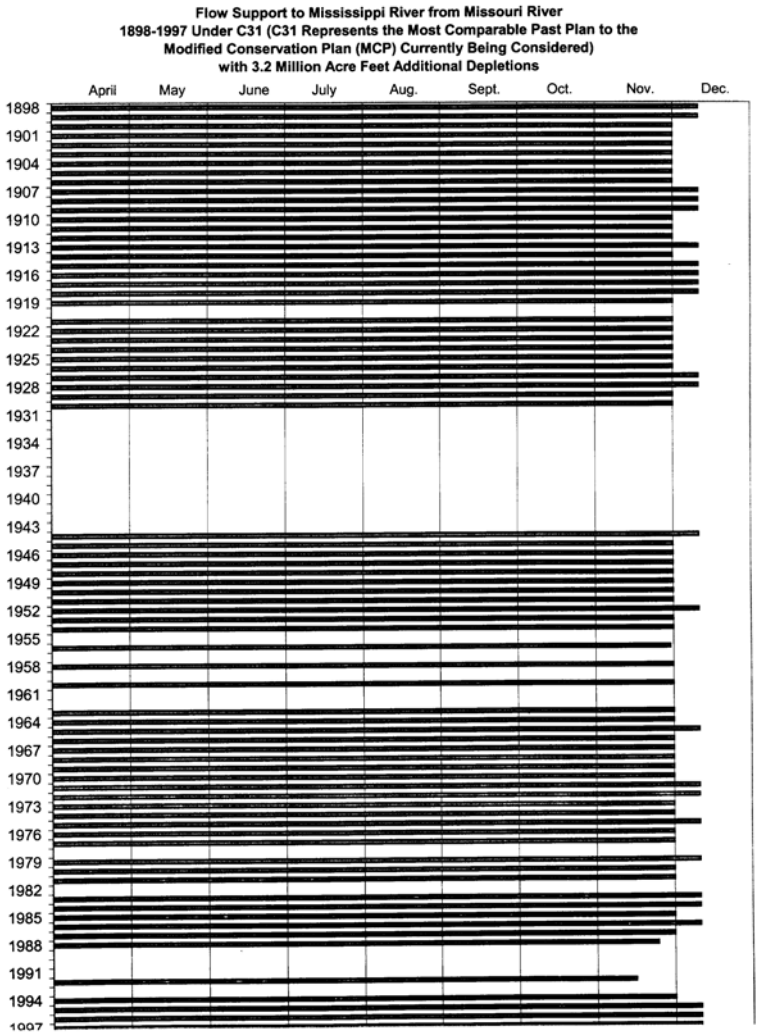
Because of the limited amount of time here tonight, I will not go into detail but wish to at least touch on several concerns.

1. The Mississippi River economic impacts displayed in the RDEIS are misleading. Sensitivity analysis performed by the Corps has shown that the results can be greatly affected by minor adjustments in the models. The results can also be dramatically changed with the exclusion of 1 year (1939). Therefore any conclusions from data presented should be carefully scrutinized prior to making any decisions or recommendations.

2. The RDEIS leads one to believe that all of the 5 new plans are better for water commerce on the Mississippi River, while at the same time indicating a need for increased dredging and changing the low water reference plane (something that should be studied in detail). This seems contradictory.
3. Of the five new plans in the RDEIS, the Corps has only analyzed the impacts of future depletions on two of the new plans. These plans increase lost efficiency costs by about 10 fold over the Current Water Control Plan (about $10 million per MAF of additional depletion versus about $1 million).
4. We believe that the new higher reservoir levels and resulting downstream flow restrictions would adversely impact water commerce on the Mississippi River. Last November is an example of where this would have been the case. Attached to my testimony is a chart showing the stage at St. Louis under current operations versus the MCP plan.

Thank you for the opportunity to comment.





March 22, 2001

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

As governors of states along the Mississippi River, we are writing to express our concern about management changes proposed for the Missouri River. Major changes are being considered without documentation of their full effects or input from the impacted states outside the Missouri River Basin. The Missouri River flows into the Mississippi River immediately upstream of the second largest inland port in our nation – St. Louis. The stretch of the Mississippi River between St. Louis, Missouri and Cairo, Illinois is often referred to as the "bottleneck reach" because of the need for flow support to provide for transportation needs. During periods of low flow in the Mississippi River, the Missouri River provides as much as two-thirds of the water to the "bottleneck reach" of the Mississippi River supporting navigation and other beneficial uses of the river.

The U.S. Army Corps of Engineers is preparing a new plan for the operations of the Missouri River. The proposals under serious consideration include higher reservoir levels that would actually decrease flexibility in managing this complex system for flood control and other project purposes. The Corps' Northwest Division's "Preferred Alternative" would shorten the navigation season on the Missouri River by 27 days and reduce the reliability of navigation on the Mississippi River during a critical period in the late fall. An analysis of the last 100 years of records shows that, under this alternative, fall cutbacks would have occurred in 35 out of 100 years. This is over four times more often than under the current water management plan. In addition, six years would have had no navigation season compared with one under the current plan. Had this proposal been in effect during the year 2000, water levels at St. Louis and in the "bottleneck reach" of the Mississippi River would have been two to three feet lower for a period of 27 days in November. The other proposals being discussed vary slightly in detail, but would result in similar impacts.

Depletions of water from the Missouri River continue to increase as demands for water grow. These depletions increase the adverse impacts of the alternative on downstream reaches of the Missouri River and the Mississippi River. Depletions exacerbate the situation by increasing the frequency of shortened navigation seasons and years with no navigation. By lowering the total amount of water in the Missouri River reservoir system, these depletions would reduce

The President
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March 22, 2001

releases from the reservoirs, particularly during low precipitation. These years are often the same years that the Missouri River provides critical flow support to the "bottleneck reach".

The effects of the alternative and increased depletions greatly amplify the impacts of either one considered in isolation. They would prove harmful to Midwest agriculture, the ports from St. Paul to New Orleans and industries that rely on the Mississippi River to move their products and represent a serious blow to our nation's economy.

In addition to these considerations, the U. S. Fish and Wildlife Service has proposed an increased spring rise and a period of low flow in the summer to help three endangered and threatened species. If implemented, this would further exacerbate the effects of higher reservoirs and depletions. We support addressing endangered species issues in a reasonable manner that considers all environmental and economic issues. Substantial gains have been realized for the same species on the lower Mississippi River using creative habitat restoration without any change in river flow. This approach has succeeded without the disruption of normal river operations.

We urge you to ensure that decisions are reached on the operations on the Missouri River only with the direct involvement of all those states that rely on the Inland Waterway System. It is important that the Corps offer a briefing to all the Mississippi River states on the full effects of these proposals, including reasonably anticipated future depletions. We request that you direct the Corps to analyze the effects of the Fish and Wildlife Service proposals and reasonably anticipated depletions on the entire Mississippi River system and the compounded effects of these changes on the Corps' "Preferred Alternative". The Corps should not select its "Preferred Alternative" until these analyses and briefings have been completed and the states have been allowed time for meaningful input. Finally, we urge you to form an inter-agency group, including the Secretaries of Transportation and Agriculture, to review the implications of these proposals prior to implementation.

Respectfully,

Paul E. Patton
Governor of Kentucky

Don Sundquist
Governor of Tennessee

M.J. "Mike" Foster, Jr.
Governor of Louisiana

Ronnie Musgrove
Governor of Mississippi

The President
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George H. Ryan
Governor of Illinois

Bob Holden
Governor of Missouri

Mike Huckabee
Governor of Arkansas

Scott McCallum
Governor of Wisconsin

Jesse Ventura
Governor of Minnesota

cc: The Vice President
The Honorable Donald H. Rumsfeld, Secretary of Defense
The Honorable Gale Norton, Secretary of the Interior
The Honorable Ann Veneman, Secretary of Agriculture
The Honorable Norman Mineta, Secretary of Transportation

U.S. Fish and Wildlife Service
Public Comments
Missouri River Master Manual Hearing
Memphis, Tennessee, November 14, 2001

Good evening, my name is Mike Olson and I'm here this evening on behalf of the U.S. Fish and Wildlife Service to issue a brief statement on the Revised Draft Environmental Impact Statement for the Missouri River Master Water Control Manual. I'm also here to listen to the comments in person from citizens on this important issue.

The Service has primary authority for oversight of our nation's rarest animals under the Endangered Species Act. The Missouri River is home to the endangered pallid sturgeon and least tern, and the threatened piping plover. The decline of these species tells us that the river is not healthy for its native fish and wildlife, and that there needs to be a change in its management to restore the Missouri to a more naturally functioning river system. A healthy river provides wildlife habitat, supports fishing, and makes boating an attractive recreational activity.

Congress committed the Federal Government to preventing extinctions by requiring Federal agencies to use their authorities to conserve endangered and threatened species. During the last 12 years our agency has been working with the U. S. Army Corps of Engineers to modernize the management of the Missouri River to help stabilize and hopefully, begin to increase and recover populations of these vary rare animals. This

new approach was described recently in a document called the "Missouri River Biological Opinion," published in November 2000.

The biological opinion looks at the river as a system and outlines the status of these rare species, the effects of the current operation on them, and a reasonable and prudent alternative to the current operation that will not jeopardize their continued existence.

Our biological opinion is based on the best available science and includes nearly 500 scientific references. In addition, we've sought out 6 respected scientists – "big river specialists" – who confirmed the need to address flow management, as well as habitat restoration. Further, the Missouri River Natural Resources Committee, a group comprised of the state experts on Missouri River management, endorses the science in the opinion.

If you have read the RDEIS or summary document, you understand that the "GP alternatives" encompass the range of flows identified by the Service as necessary below Gavin's Point Dam to keep the listed species from being jeopardized. Our agency, and the Corps, also recognized the importance of some flexibility in management that would enable Missouri River managers to capitalize on existing water conditions to meet endangered species objectives without having to go through another 12-year process.

Other management changes identified in the biological opinion include a "spring rise" out of Fort Peck Dam, an improved hatchery operation to assist declining pallid sturgeon populations, restoration of approximately 20% of the lost aquatic habitat in the lowest 1/3 of the river, intrasystem unbalancing of the three largest reservoirs, and acceptance of an adaptive management framework that would include improved overall monitoring of the river.

In closing, the Service supports the identified goal of the revised master manual - to manage the river to serve the contemporary needs of the Missouri River Basin and Nation. These needs include taking steps to ensure that threatened and endangered species are protected while maintaining many other socioeconomic benefits being provided by the operation of the Missouri River dams. The Service stands behind the science used in the opinion, and is confident that the operational changes identified in our opinion, and included in the RDEIS as GP alternatives will ensure that these rare species continue to be a part of the Missouri River's living wildlife legacy.

The Missouri River is a tremendous river, with a significant and revered heritage. Our influence has altered the river greatly. Changes are needed to modernize and restore health to the river – for the benefit of rare species and for people, too.

BOARD OF DIRECTORS
ST. FRANCIS LEVEE DISTRICT
P.O. BOX 399 • PHONE 870/735-1062 • FAX 870/735-1075
WEST MEMPHIS, ARKANSAS 72303

November 14, 2001

U. S. Army Corps of Engineers
Northwest Division
Attention: Missouri River Master Manual RDEIS
12565 West Center Road
Omaha, Nebraska 68144-3869

Gentlemen:

My name is Rob Rash, Chief Engineer of the St. Francis Levee District headquartered in West Memphis, Arkansas. Our district is located in Eastern Arkansas and we are the local cooperation organization for the St. Francis Basin Project and Mississippi River and Tributaries Project in Northeast Arkansas. Our district maintains one hundred and sixty (160) miles of mainline levee on the west bank of the Mississippi River beginning at the Arkansas/Missouri state line and extending to the mouth of the St. Francis River, approximately eight miles above Helena, Arkansas and seventy five (75) miles of tributary levee along the St. Francis River. We are involved in the movement and control of surface water runoff of 4.8 million acres of farmland, industrial, commercial and residential development, and upland runoff each year. We are funded totally by taxes paid from people we protect.

We are strongly opposed to any changes in the current plan of operation of the Missouri River. We are downstream from Cape Girardeau, Missouri and are directly and adversely affected with any flooding that occurs on the Mississippi River. In 1993 if it had not been for our District, our levee system, and other features within our District, water from the Mississippi River would have flowed through our area for 150 consecutive days beginning in April going through most of September. To receive any additional waters would not have been acceptable to our taxpayers. Our levee system was never in danger of breaching, but additional waters would have continued to put more pressure on an already saturated levee creating an undesirable situation. Also, from September through February we experience low river levels which makes river transportation difficult and sometimes impossible. Because the U.S. Army Corps of Engineers took control and has the responsibility of improving navigation, flood control, and drainage on the Mississippi River and its tributaries, river transportation has been greatly enhanced but would be greatly effected if the flow were decreased.

Our District also has thousands of acres of unprotected farmland. This farmland is on the riverside of the levee and is some of the finest cropland in the delta. Any change in the current plan of operation of the Missouri River would destroy the productivity of this unprotected land and the livelihood of hundreds of farmers.

Thousands of taxpayers in seven counties are protected by our levee system. The safety and welfare of those people and many others is dependent upon our levee system working properly. We are strongly opposed to any plans that would cause our levees to be jeopardized in any way. Our citizens welfare, safety and the investments they have already made in our District, and up and down the Mississippi River, and Missouri River are far more important than the least turn, pallid surgeon or piping plover.

We must remind you and those who advocate making those changes, the reservoirs and the improvements which have been made on the Mississippi River and on the Missouri River were authorized by Congress based upon the benefits of flood control, drainage, and navigation. The environmentalists, the conservationists, and other such entities have reaped many benefits from the construction of those reservoirs and from the improvements the U. S. Army Corps of Engineers have made on those two (2) rivers. We do not want to circumvent what Congress has authorized and justified to the taxpayers of this nation.

We are at a point in our nation that we must be exploring every possible means of reducing our dependency upon the foreign oil markets. We need to utilize anything and any mode of transportation which is more economical than our highways. Water borne commerce and transportation is far more economical for moving goods throughout the heartland of our nation. It is much more environmentally acceptable than the many emissions that come from our trucking industry and it is the safest means of transportation we have. We need to look to improve our waterway infrastructure and not be looking for ways to discourage development of those assets. We need to improve, grow and construct more hydroelectric plants on the rivers, not less. The people who are advocating these changes for the most part do not live here in the valley, they do not make their living here, they do not have investments here yet they have caused at least three (3) and perhaps more hearings on this same issue over the past few years which is asinine. We are continually wasting the taxpayers money by continually studying these issues, holding these hearings, and striving to find a plan to the benefit of the least turn, pallid sturgeon, and the piping plover. We need to be better stewards of our taxpayers than this.

The information that is presented by the U. S. Fish and Wildlife Service has no scientific basis and is highly flawed. In my District's dealing with the U. S. Fish and Wildlife Service we have found them to be an organization that speaks without any validity to the data they put out and most of their information and statements are salted with prefixes such as "this may happen", "this could happen", "this might happen". They never say unequivocally "this will happen". Those groups which support them such as the Sierra Club and other such organizations are based outside the area in question and have no vested interest in the area. We are thankful the U. S. Fish and Wildlife Service, the Sierra Club, and other like agencies did not exist at the time our forefathers began developing this country. Had they existed we would still be a third world country and not the leader of the entire world as we are today.

We believe it is time to quit holding these hearings and it is time to quit studying changes to the Missouri Master Water Control Plan. We believe it is time to tell the U. S. Fish and Wildlife Service and any others that are advocating these changes. They are not going to be made and we are going to continue to operate the Missouri River and the Mississippi River in the manner that Congress authorized and approved. Further, please tell them we are going to explore ways and means to improve and grow our navigation, flood control, and drainage interests on these two (2) great waterways of our nation.

Thank you very much for your time and attention.

Sincerely,

Rob Rash
Chief Engineer
St. Francis Levee District

SOUTHERN
GOVERNORS' ASSOCIATION

February 20, 2001

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

As governors of states along the Mississippi River, we are writing to express our concern about management changes proposed for the Missouri River. Major changes are being considered without documentation of their full effects or input from the impacted states outside the Missouri River Basin. The Missouri River flows into the Mississippi River immediately upstream of the second largest inland port in our nation – St. Louis. The stretch of the Mississippi River between St. Louis, Missouri and Cairo, Illinois is often referred to as the "bottleneck reach" because of the need for flow support to provide for transportation needs. During periods of low flow in the Mississippi River, the Missouri River provides as much as two-thirds of the water to the "bottleneck reach" of the Mississippi River supporting navigation and other beneficial uses of the river.

The U.S. Army Corps of Engineers is preparing a new plan for the operations of the Missouri River. The proposals under serious consideration include higher reservoir levels that would actually decrease flexibility in managing this complex system for flood control and other project purposes. The Corps' Northwest Division's "Preferred Alternative" would shorten the navigation season on the Missouri River by 27 days and reduce the reliability of navigation on the Mississippi River during a critical period in the late fall. An analysis of the last 100 years of records shows that, under this alternative, fall cutbacks would have occurred in 35 out of 100 years. This is over four times more often than under the current water management plan. In addition, six years would have had no navigation season compared with one under the current plan. Had this proposal been in effect during the year 2000, water levels at St. Louis and in the "bottleneck reach" of the Mississippi River would have been two to three feet lower for a period of 27 days in November. The other proposals being discussed vary slightly in detail, but would result in similar impacts.

Depletions of water from the Missouri River continue to increase as demands for water grow. These depletions increase the adverse impacts of the alternative on downstream reaches of the Missouri River and the Mississippi River. Depletions exacerbate the situation by increasing the frequency of shortened navigation seasons and years with no navigation. By lowering the total amount of water in the Missouri River reservoir system, these depletions would reduce releases from the reservoirs, particularly during low precipitation. These years are often the same years that the Missouri River provides critical flow support to the "bottleneck reach".

SGA MO River Letter
February 20, 2001
Page 2

The effects of the alternative and increased depletions greatly amplify the impacts of either one considered in isolation. They would prove harmful to Midwest agriculture, the ports from St. Paul to New Orleans and industries that rely on the Mississippi River to move their products and represent a serious blow to our nation's economy.

In addition to these considerations, the U. S. Fish and Wildlife Service has proposed an increased spring rise and a period of low flow in the summer to help three endangered and threatened species. If implemented, this would further exacerbate the effects of higher reservoirs and depletions. We support addressing endangered species issues in a reasonable manner that considers all environmental and economic issues. Substantial gains have been realized for the same species on the lower Mississippi River using creative habitat restoration without any change in river flow. This approach has succeeded without the disruption of normal river operations.

We urge you to ensure that decisions are reached on the operations on the Missouri River only with the direct involvement of all those states that rely on the Inland Waterway System. It is important that the Corps offer a briefing to all the Mississippi River states on the full effects of these proposals, including reasonably anticipated future depletions. We request that you direct the Corps to analyze the effects of the Fish and Wildlife Service proposals and reasonably anticipated depletions on the entire Mississippi River system and the compounded effects of these changes on the Corps' "Preferred Alternative". The Corps should not select its "Preferred Alternative" until these analyses and briefings have been completed and the states have been allowed time for meaningful input. Finally, we urge you to form an inter-agency group, including the Secretaries of Transportation and Agriculture, to review the implications of these proposals prior to implementation.

Respectfully,

Paul E. Patton Governor of Kentucky	Don Sundquist Governor of Tennessee	M.J. "Mike" Foster, Jr. Governor of Louisiana
Ronnie Musgrove Governor of Mississippi	George H. Ryan Governor of Illinois	Bob Holden Governor of Missouri
Mike Huckabee Governor of Arkansas		

cc: The Vice President
The Honorable Donald H. Rumsfeld, Secretary of Defense
The Honorable Gale Norton, Secretary of the Interior
The Honorable Ann Veneman, Secretary of Agriculture
The Honorable Norman Mineta, Secretary of Transportation

SOUTHERN
GOVERNORS' ASSOCIATION

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Missouri River Flow Management Resolution

Sponsored by Governor Bob Holden of Missouri
Approved February 27, 2001
Southern Governors' Association Winter Meeting
Washington, DC

Whereas, the flow of commerce on the Mississippi River is essential to the economic welfare of the nation;

Whereas, the United States Department of Agriculture reports that 70 percent of the nation's total grain exports were handled through Mississippi River port elevators;

Whereas, more than one half of the nation's total grain exports move down the Mississippi River to Gulf ports;

Whereas, free movement of water-borne commerce on the Inland Waterway System is critical to the delivery of goods to deep-water ports for international trade;

Whereas, the reliability of adequate flows for navigation is a key requirement for fulfillment of delivery contracts, employment in ports and terminals, and energy efficiency;

Whereas, delays and stoppages would threaten the successful implementation of international trade agreements under NAFTA and GATT;

Whereas, the Missouri River contributes up to 65 percent of the Mississippi River flow at St. Louis during low water conditions;

Whereas, reduction of Missouri River flows above St. Louis would result in more frequent and more costly impediments to the flow of commerce on the Mississippi River;

Whereas, the reach of the Mississippi River between the mouth of the Missouri River at St. Louis and the mouth of the Ohio River at Cairo, Illinois is at highest risk for delays and stoppages of navigation because of low-water conditions; and

Whereas, the Northwestern Division of the U.S. Army Corps of Engineers (USACE) is considering several proposed alterations to the current edition of the Master Water Control Manual for the Missouri River that would reduce support of water-borne commerce by restricting the flow of the river during the summer and fall, low-water period at St. Louis; now, therefore, be it

Resolved, That the Southern Governors' Association would strongly oppose any alterations that would have such an effect and would urge the Corps to consult with affected inland waterway states prior to endorsing any proposal that would alter the current edition of the manual.

HALL OF THE STATES 444 NORTH CAPITOL STREET, NW SUITE 200 WASHINGTON, DC 20001
202/624-5897 FAX 202/624-7797 WWW.SOUTHERNGOVERNORS.ORG

Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, Puerto Rico, South Carolina, Tennessee, Texas, U.S. Virgin Islands, Virginia, West Virginia

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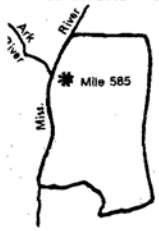

Rosedale-Bolivar County Port Commission
Terminal Road, Port of Rosedale
Post Office Box 480 - Rosedale, MS 38769
Telephone: (662) 759-6212
FAX: (662) 759-6213

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William F. Havens, Sr., Secretary-Treasurer
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Walter Jenkins
A. R. Mann III
J.Y. Thoe
PORT DIRECTOR:
David Work

DATE: November 14, 2001

TO: U.S. Army Corp. of Engineers

FROM: David Work

RE: Public Hearing, Memphis, Tennessee, November 14, 2001
Missouri River Master Water Control Manual

The Rosedale-Bolivar County Port Commission does not support any changes to the current water control plan. Too much is at stake for all parties involved to start making changes to this plan that could jeopardize commerce on our inland river system.

With cargo tonnage projected to double by the year 2020, and with the navigable river system being the lowest cost per ton mile, most favorable environmental transportation system with sufficient capacity for growth, it is imperative that we maintain and or improve water flows into the Mid to Lower Mississippi river system.

We appreciate the opportunity to offer this statement.

Sincerely,

David Work

STATEMENT

GEORGE C. GRUGETT
EXECUTIVE VICE PRESIDENT
MISSISSIPPI VALLEY FLOOD CONTROL ASSOCIATION

GOOD EVENING, MY NAME IS GEORGE GRUGETT AND I'M AN ENVIRONMENTALIST, SO ARE ALL MY FRIENDS AND EVERYONE I'M ASSOCIATED WITH, WE ARE THE DUMB ENVIRONMENTALIST, NOT THE ONES THAT MAKE THE ENORMOUS SALARIES BUT JUST THE ONES THAT THINK THAT PEOPLE MATTER IN THE SCHEME OF THINGS.

I FEEL LIKE I'M ALSO A CREATURE OF HABIT, THIS IS THE THIRD TIME I'VE BEEN TO A PUBLIC HEARING TO TALK ABOUT CHANGING THE MISSOURI RIVER MASTER WATER CONTROL MANUAL.

IN 1990, SOME 11 YEARS AGO, WE FILLED A LARGE MEETING ROOM IN THE HILTON HOTEL NEAR THE AIRPORT HERE IN MEMPHIS. EVERYONE PRESENT AND I DO MEAN EVERYONE SPOKE IN STRONG OPPOSITION TO THE PURPOSED CHANGES TO THE MASTER WATER CONTROL PLAN FOR THE MISSOURI RIVER. MY GOOD FRIEND MARGIE TYLER WHO AT THAT TIME WAS THE EXECUTIVE DIRECTOR OF THE MISSISSIPPI PORTS AND HARBORS ASSOCIATION, SAID IT BEST WHEN SHE TOLD THE CORPS OF ENGINEERS REPRESENTATIVES PRESENT AND I QUOTE: "YOUR PLAN STINKS."

FOUR YEARS LATER ON OCTOBER 6, 1994 WE FILLED AN EVEN LARGER ROOM AT THE HOLIDAY INN IN THE EASTERN PART OF MEMPHIS. AGAIN EVERYONE PRESENT, EVERYONE!, SPOKE IN OPPOSITION TO THE PROPOSED CHANGES TO THE MASTER WATER CONTROL PLAN FOR THE MISSOURI RIVER. AGAIN MY GOOD FRIEND MARGIE TYLER EMPHATICALLY STATED: "YOUR PLANS STINKS."
HERE WE ARE AGAIN AT THE RADISSON HOTEL IN DOWNTOWN MEMPHIS, LET ME TELL YOUR TODAY, YOUR PLAN STILL STINKS, YOU KNOW IT STINKS, I KNOW IT STINKS BUT I'M ALSO PRETTY SURE IT'S GOING TO BE IMPLEMENTED WITH LITTLE OR NO REGARD TO THE ECONOMY OF THIS NATION AND I AS I TOLD A GROUP IN ORLANDO IN 1994, I'M NOT SURE THIS GREAT NATION'S ECONOMY CAN SURVIVE MUCH MORE OF THIS TYPE OF CHANGE.

BUT MAKE NO MISTAKE, THESE PURPOSED CHANGES HAVE VERY LITTLE IF ANY THING TO DO WITH SOME SO-CALLED ENDANGERED SPECIES. THIS IS ALL ABOUT MONEY, RECREATION MONEY TO BE MORE SPECIFIC. ALL SIX OF THE ALTERNATIVES OUTLINED IN THE REVISED DRAFT EIS ALLOWS FOR ADDITIONAL WATER STORAGE IN THE UPSTREAM RESERVOIRS IN MONTANA AND THE DAKOTAS TO KEEP THEM AT A HIGHER LEVEL THAT WILL BENEFIT WATER RECREATION.

YOU DON'T HAVE TO BE A HISTORY PROFESSOR TO KNOW THAT THOSE RESERVOIRS WERE NOT BUILT WITH TAX-PAYER DOLLARS FOR THE USE OF WATER SKIERS, BOATERS AND FISHERMEN. THEY WERE BUILT FOR FLOOD CONTROL AND NAVIGATION. THE FACT THAT WATER RELATED RECREATION HAS BECOME SUCH A FINANCIAL WIND-FALL FOR THE STATES OF MONTANA AND THE DAKOTAS IS GREAT BUT WE MUST NOT SACRIFICE FLOOD CONTROL AND NAVIGATION ON THE MISSOURI AND THE MISSISSIPPI RIVERS FOR RECREATION. IF WE CONTINUE THE TREND I SEE SO PLAINLY WE WILL SOON GET BACK TO THE POINT WHERE NO ONE HAS THE TIME TO RECREATE, EVERYONE WILL BE HARD-PRESSED TO MAKE ENDS MEET AND WATER-SKIING WILL NOT BE A PRIORITY.

AGAIN, ALTHOUGH I CAN NOT DO IT AS WELL AS MARGIE, LET ME SAY TO YOU "YOUR PLAN OR PLANS STINKS" THE CURRENT WATER CONTROL PLAN HAS WORKED WELL FOR ALL THESE YEARS, IT STILL WORKS WELL. LEAVE IT ALONE, GO HOME AND GO TO WORK,

THIS COUNTRY HAS MORE IMPORTANT THINGS TO DO. WE DON'T NEED TO BE SPENDING TIME WITH THIS FOOLISHNESS.

THANK YOU.

(To whoever is in charge)?

My name is Randy Richardson and I represent the Memphis & Shelby County Port Commission, the Port of Memphis. I want to express the appreciation of the Port of Memphis for this opportunity to again present our views on the Revised Draft Environmental Impact Statement ~~again~~. I am confused by, what part of; "Leave the existing plan alone." you don't understand? I will submit for the record my comments and I have attached copies of a letter to the President of the United States from the Southern Governor's Association dated February 20, 2001 and a copy of the Missouri River Flow Management Resolution passed by the same Southern Governor's Association on February 27, 2001. Don Sundquist, Governor of the State of Tennessee has signed and approved both of these documents.

The Port of Memphis through the Memphis & Shelby County Port Commission has followed this situation for many years and finds that we still arrive at the same conclusion as when we first began looking at the operating plan. The Port of Memphis believes that the Current Water Control Plan for the operation of the Missouri River is still the best. It satisfies all of the federally authorized purposes of flood control, navigation, hydroelectric power, fish and wildlife and recreation. We recommend that none of the other five alternatives be implemented to change the current plan of operation.

After all of the study, analysis and money that has been expended on this subject I am concerned that the true result has still not been presented. I trust that this nation and our waterways interests, which includes everyone that has an interest, does not arrive at another situation like the Upper Miss Study. That is not good for any of the parties involved, but once again, it appears that the models employed are not working. We trust that this has not gotten to be a turf battle of who is in charge. This nation's waterways are the concern of all of its citizens whether they realize it or not. The waterways function as a system and the individual segments must be separated from the whole. In this case, the Missouri River influences the performance of the Mid and Lower Mississippi, which of course influence the Upper Mississippi and the Ohio. The Port of Memphis has reviewed the points made by representatives of MARC 2000 and agrees with their key points and their explanations of those points. Since I am confident this body has a copy of the comments made by MARC 2000 I will not attach them to this statement.

It is the hope of the Port of Memphis that a conclusion to this issue can be reached. It is further our recommendation to continue the present plan of operation of the Master Water Control Manual on the Missouri River.

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NEW ORLEANS, LOUISIANA TRANSCRIPT— NOVEMBER 15, 2001

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UNITED STATES ARMY CORPS OF ENGINEERS

NORTHWESTERN DIVISION

PUBLIC HEARING ON THE MISSOURI RIVER WATER CONTROL MANUAL - COMMENT SESSION ON THE REVISED DRAFT ENVIRONMENTAL IMPACT STATEMENT

Hearing held on Thursday, November 15, 2001, at the Pontchartrain Hotel, 2031 St. Charles Avenue, New Orleans, Louisiana 70140, presided over by Hearing Officer Col. Daniel W. Krueger, Deputy Division Engineer and Deputy Commander for the Northwest Division of the United States Corps of Engineers.

REPORTED BY:

DIANE TEWIS CLARK, RPR, RMR, CRR
CERTIFIED REPORTER

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THE HEARING OFFICER:

Thank you and good evening. Let me welcome you to this evening's comment session on the Revised Draft Environmental Impact Statement for the Missouri River Master Manual. I'm Col. Dan Krueger and I'm the Deputy Division Engineer and Deputy Commander for the Northwestern Division of the United States Army Corps of Engineers.

I would like to introduce those Corps members with me tonight to participate in our hearing, first leg of the team from the Northwestern Division headquarters that has prepared the Revised Draft Environmental Impact Statement and I would start with Rose Hargrave. Rose is outside. Roy McAllister in the back. John LaRandeau, Patti Lee, Paul Johnston, Rick Moore, Jody Farhat and Betty Newhouse. And that's Rose Hargrave right there at the door, project manager.

Joining us from the Mississippi Valley Division located in Vicksburg is Mr. Larry Kilgo and Mr. Don Flowers. And we also have Mr. Tom Polens from the Mississippi Valley Division in the rear of

the room. And we have two gentlemen joining us from the New Orleans district of the Corps with us this evening, Mr. Mark Habb and Mr. Dan Wader. Also from a cooperating agency, the Western Area Power Administration, I introduce Mr. Nick Staus.

Are there any elected officials in attendance this evening who would like to be recognized?

(No response).

THE HEARING OFFICER:

This is the 14th session that we have had in a series of sessions. It is the last of the 14 previously scheduled sessions, starting up in Helena, Montana and working our way down the Missouri River and subsequently down the lower Mississippi here to New Orleans. This afternoon, we conducted an open-house workshop right here in this room and I hope many of you were able to stop by and study the displays that are arrayed around the back of the room, pick up handouts, and talk to staff members present. If you were not able to do so this afternoon, we will have displays continued

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this evening and please take advantage of the opportunity at the end of the meeting.

Our agenda tonight starts with a short video. We have, first of all, a welcome from the commander of the Northwestern Division, Col. Dave Fastabend, followed by a description of the project, features of the Revised Draft Environmental Impact Statement, and the major impacts that we see.

We want everyone to have a common understanding of the Revised Draft Environmental Impact Statement. Copies of the summary of the statement and handouts, as well as the entire document, are available at libraries and project offices throughout the basin and you may also get a copy by writing to us or off our website. The addresses for getting one by writing to us are available in the back of the room.

Following the video, I will give you a fuller description of the comment process this evening and then we will take your comments. We will stay as long as necessary for everyone to be heard. And

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with that, let's begin with our video please.

(The video presentation)

THE HEARING OFFICER:

Thank you for your attention and I hope you found that to be a helpful summary of what's presented in the draft statement. We will now move to the testimony portion of the hearing.

The hearing is being recorded this evening by Diane Clark of Professional Shorthand Reporters here in New Orleans. Diane will be taking verbatim testimony which will be the basis for the official transcript and record of this hearing. This transcript with all written statements and other data will be made part of the administrative record for action.

Persons who are interested in obtaining a copy of the transcript for this session or any other session may do so and if you are interested in receiving a copy, you just need to indicate that on one of the cards available at the table by the entrance. Additionally, if you're not on

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our mailing list, again, and desire to be, please indicate this on the card.

It is essential to conduct an orderly hearing this evening that I have a card from anyone who desires to speak, giving your name and who you represent. If you desire to make a statement and have not filled out a card, please raise your hand and we will furnish one to you so you may indicate your desire to speak.

Patti, we have one up here in the second row, please.

The primary purpose of tonight's session is to help ensure that we have all the essential information that we need to make our decision on establishing guidelines for future operations of the Mainstem System and that the information is accurate. This is your opportunity to provide us with some of that information and we view this as a very important opportunity for you to have an influence on the decision. Therefore, I'm glad that you're here tonight in order to give us that information.

I want you to remember that

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tonight's forum is to discuss the proposed changes in the operation of the Missouri River Mainstem System that are analyzed in the recently released Revised Draft Environmental Impact Statement. We should concentrate our efforts this evening on issues specific to that decision. It is my intention to give all interested parties an opportunity to express their views on the proposed changes freely, fully, and publicly. It is in the spirit of seeking full disclosure and providing an opportunity for you to be heard regarding the future decision that we have called this hearing. Anyone wishing to speak or make a statement will be given an opportunity to do so.

As Hearing Officer, my role and responsibility is to conduct the hearing in such a manner as to ensure the full disclosure of all relevant facts bearing on the information that we currently have before us. If the information is inaccurate or incomplete, we need to know that and you can help us make that determination.

Ultimately, the final selection of

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a plan that provides a framework for the future operations of the Mainstem System will be based on the benefits that may be expected to accrue from the proposed plan, as well as the probable negative impacts including cumulative impacts. This includes significant social, economic, and environmental factors.

Again, you may, if you desire, submit a written statement to us either by mail or fax and the address and fax number are available at the table. The official record for this hearing, again, will be open until the 28th of February, 2002. To be properly considered, your written statements must be postmarked by that date.

Before we begin to take testimony, I would like to say a few words about order and procedure this evening. When we call your name, please come forward to the lectern and state your name, specify whether or not you're representing a group, agency or organization or if you're speaking as an individual, and if you are, please tell us where you're from. You will be given five

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minutes to complete your testimony.

If you are going to read a statement, we would appreciate it if you would provide a copy of the statement to the recorder prior to speaking, so that your remarks will not need to be taken down verbatim.

After all statements have been made, time will be allowed for any additional remarks. During the session, I may ask questions to clarify points for my own satisfaction. Since the purpose of this public hearing is to gather information which will be used in evaluating the proposed plan, or alternatives to it, and since open debate between members of the audience would be counterproductive to this purpose, I must insist that all comments be to me as the Hearing Officer.

Please remember speakers will be limited to five minutes and we will be using a lighted timer. When the yellow light comes on, it means you have two minutes of time remaining. When the red light comes on, your five minutes are up. No portion of

unused time allotted to each speaker may be transferred to any other presenters and I would comment that this is uniform with the procedures used at all of the 13 preceding hearings up and down the basin.

Mr. Rick Moore will assist me by calling the names on the cards submitted. Rick, I would ask you to go ahead and call names.

MR. MOORE:

Jerry Vineyard.

* * *

JERRY VINEYARD,

Interstate River Basin Coordinator for the Missouri Department of Natural Resources, made the following statements:

MR. VINEYARD:

Good evening. My name is Jerry Vineyard. I am the Interstate River Basin Coordinator for the Missouri Department of Natural Resources. I represent the department on interstate water issues on both the Mississippi and Missouri Rivers. Thank you for the opportunity to speak, and thank you for holding a hearing in New

Orleans where the full effects of flow management changes on the Missouri River will be felt.

Tonight, I am here to represent Missouri's concerns regarding operational changes proposed for the Missouri River and the resulting impacts to the Mississippi River and to respond to issues raised in previous public comment.

The Missouri River flows into the Mississippi River immediately upstream of the second largest inland port in our nation, St. Louis. The stretch of the Mississippi between St. Louis and Cairo, Illinois is often referred to as the "bottleneck reach." Located between the system of locks and dams and the Ohio River, low flow in the reach can act as a bottleneck to waterborne commerce on the Inland Waterway System. During periods of low flow in the Mississippi River, the Missouri River provides as much as two-thirds of the water to the "bottleneck reach" of the Mississippi, supporting river commerce and other beneficial uses of the

13

1 river.
2 Even though there is a direct link
3 between these two great rivers, the effects
4 of the changes to the management of the
5 Missouri River on the Mississippi River have
6 received surprisingly little attention in
7 the Missouri River Master Manual discussion.
8 Although the Corps of Engineers manages
9 these two great rivers independently, they
10 must allow river users in both basins to
11 fully understand how changes to Missouri
12 River management may affect the reliability
13 of both rivers.
14 As early as 1999, three
15 Mississippi River governors submitted a
16 joint letter to General Ballard,
17 specifically requesting that incremental
18 depletion modeling be performed and reviewed
19 so that everyone may understand depletion
20 impacts on Mississippi River commerce and
21 midwest agriculture. Then, earlier this
22 year, the governors of eight Mississippi
23 River states (Kentucky, Tennessee,
24 Louisiana, Mississippi, Illinois, Arkansas,
25 Wisconsin, and Minnesota) joined Missouri

Miss 4

14

1 Governor Bob Holden in requesting that
2 decisions on the operations on the Missouri
3 River only be reached with the direct
4 involvement of all the states that rely on
5 the Inland Waterway System. They asked that
6 the Corps offer briefings to all the
7 Mississippi River states on the full effects
8 of these proposals, including reasonably
9 anticipated future depletions.
10 The governors also requested that
11 the Corps provide reasonable anticipated
12 depletion analyses on the entire Mississippi
13 River system for all alternatives that are
14 under consideration, including the Fish and
15 Wildlife Service's proposal found in the
16 Biological Opinion. Further, the Corps was
17 asked to not select its preferred
18 alternative until these analyses and
19 briefings had been completed and the states
20 have been allowed time for meaningful review
21 and input.
22 At best, the failure on the part
23 of the Corps to provide the incremental
24 depletion analyses requested by 11 governors
25 for the MCP alternative is a serious

Other 127

15

omission which must be corrected as soon as possible. The impacts to the Mississippi River economic and environmental values should be made available on the Internet so that all parties following the Master Manual revision process may have access to the information before the end of the comment period. Copies of these letters are attached to my testimony.

Other 127 (con't.)

I am also submitting for the record a copy of a strongly worded resolution issued by the Southern Governors Association opposing any flow management changes on the Missouri River that would reduce support for waterborne commerce on the Mississippi River, especially in the summer and fall.

All new plans in the RDEIS retain more water in the mainstem reservoirs at the expense of flow support to the lower Missouri and Mississippi Rivers. Large decreases in flow support occur when navigation is not supported to the Missouri River. Under the MCP alternative, large decreases in flow support occur 40 percent

Miss 19

16

of the time (40 out of 100 years). Our analysis indicates that 75 percent of the time, these cutbacks in flow on the Missouri River coincide with low water on the Mississippi River (30 of the 40 years). In contrast, the current Water Control Plan cuts back 9 percent of the time (nine out of 100 years), coinciding with low water on the Mississippi River about 78 percent of the time (70 out of nine years).

Miss 19 (con"t.)

The current Water Control Plan clearly has greater reliability for flow support to the Mississippi River than any of the other plans presented in the RDEIS.

We believe that plans must be evaluated under future water depletion conditions. The MCP plan has not been analyzed with future levels of depletions. If the Corps had analyzed MCP, we would expect that there would be an exponential increase in the magnitude and frequency of low-water events on the Mississippi River. Consequently, we would also expect the economic impacts to grow exponentially.

Miss 20

During the PRDEIS process the

17

Corps analyzed future depletion scenarios for several plans. The C31 plan is possibly the closest plan to the MCP plan. Under C31 there are four years out of 100 where the entire ice-free period is at the greatly reduced flow levels. With 0.8 MAF of additional depletions, this rises to seven out of 100 years and with 1.6 MAF of additional depletions, this rises to eight out of 100 years. The plan really shows a dramatic change at the 3.2 MAF of additional depletions, where 25 out of the 100-year period has substantial flow cuts for the entire ice-free season (April to December). This compares to eight out of 100 years under the current Water Control Plan with 3.2 MAF of additional depletions.

A graphical representation has been included for C31 and the current Water Control Plan (CWCP) with future depletions added. The bars represent periods when substantially higher flow support is provided. This analysis compels us to call on the Corps to significantly scale back the higher reservoir levels that are embedded in

Miss 20 (con't.)

18

all five of the new flow management alternatives in the RDEIS in order to avoid major negative impacts on Mississippi River navigation.

Miss 20 (con't.)

Because of the limited amount of time here tonight, I will not go into detail, but wish to at least touch on several concerns.

First, the Mississippi River economic impacts displayed in the RDEIS are misleading. Sensitivity analysis performed by the Corps has shown that the results can be greatly affected by minor adjustments in the models. The results can also be dramatically changed with the exclusion of one year (1939). Therefore, any conclusions from data presented should be carefully scrutinized prior to making any decisions or recommendations.

Miss 21

Second, the RDEIS leads one to believe that all of the five new plans are better for water commerce on the Mississippi River, while at the same time indicating a need for increased dredging and changing the low water reference plane (something that

Miss 22

19

should be studied in detail). This seems contradictory.

Third, of the five new plans in the RDEIS, the Corps has only analyzed the impacts of future depletions on two of the new plans. These plans increase lost efficiency costs by about 10 fold over the current Water Control Plan (about $10 million per MAF of additional depletion versus about $1 million).

Other - 9

I am also submitting for the record a partial listing summarizing Indian water right claims asserted by the Mni-Sose Intertribal Water Rights Coalition, Inc. These claims have not been addressed, and therefore, add further uncertainty to Missouri River flows.

Tribal 8,13

Fourth, we believe that the new higher reservoir levels and resulting downstream flow restrictions would adversely impact water commerce on the Mississippi River. Last November is an example of where this would have been the case. Attached to my testimony is a chart showing the stage at St. Louis under current operations versus

Miss 24

20

the MCP plan.

Fifth, last night in Memphis testimony was given that most of the changes proposed by the MCP alternative were approved in a seven-to-one vote by the Missouri River Basin Association. However, it is important to point out that Mississippi River states were not welcome at the table, and, therefore, had no opportunity to vote. Had Illinois, Kentucky, Arkansas, Tennessee, Mississippi, and Louisiana been given a vote, the result likely would have been seven to seven, with seven states representing about seven million people versus seven states representing 35 million people.

Other 164

Finally, we understand that three additional hearings have been proposed for Omaha, Quincy, and Cape Girardeau. We support additional hearings and suggest that they be scheduled for late in the comment period because it would allow time to include any new studies that the Corps might perform.

Thank you for the opportunity to

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comment.

THE HEARING OFFICER:

Thank you, Mr. Vineyard.

MR. MOORE:

Tad Kardis.

* * *

TAD KARDIS,

with the Missouri Attorney General, Jay Nixon's office, made the following statements:

MR. KARDIS:

Good evening, Col. Krueger.

THE HEARING OFFICER:

Good evening.

MR. KARDIS:

My name is Tad Kardis. I'm with the Missouri Attorney General, Jay Nixon's office.

The Missouri River isn't flowing by outside our door tonight, or perhaps it is. The muddy Mississippi would not be quite so muddy if the Missouri River didn't empty into it. Indeed, by coming to New Orleans, the Corps recognizes the relationship between these two great rivers

Other 9

Miss 42

22

and the effect its management of the Missouri River can have on people outside of the basin. What if the Missouri River didn't flow into the Mississippi? Or what if a lot less of it did? The Corps must pay closer attention to the threat of depletions and the impacts they could have on the Mississippi River states.

Consider that the Corps has not even analyzed the effect of depletions on the Modified Conservation Plan or MCP alternative. This alternative seems to be a leading contender for the next Master Manual since it is a variation on a theme once backed by seven of the eight Missouri River Basin Association states (MRBA). Missouri was the lone holdout, primarily because of the unknown impact of depletions on operations under the MRBA plan.

Last night in Memphis you heard from the director of the MRBA. As counsel to one of the MRBA member states, I was frankly shocked to hear Mr. Opper suggest that the Gavins Point flow change alternatives were relatively benign compared

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to those proposed by the Corps in 1989 and 1994. He also suggested that MRBA hadn't made a decision on these flow changes and will consider supporting them.

Mr. Opper may have the authority to speak on behalf of MRBA when the directors give it to him, but I regularly attend MRBA meetings and, to my knowledge, MRBA has not taken a position that the GP flow changes are benign and has not indicated that it is leaning towards supporting them. The MRBA recommendations do not include these flow changes. We intend to fully investigate these apparently ultra vires statements by Mr. Opper.

Mr. Opper also opined that MRBA had been largely, but not completely successful in trying to find common ground. But almost reaching consensus is not consensus. While there may be seven of eight Missouri River Basin states that support the MRBA plan, let's not forget the nine Mississippi River state governors who have requested that the Corps involve them in decisions affecting Missouri River

24

operations.

Does the Corps have the legal authority to manage the Missouri River for the incidental benefit of the Mississippi River? Congress says they do. The authorizing legislation gives the Corps authority to operate the Missouri River Mainstem Reservoir System to support navigation. The Pick-Sloan Plan does not specify that the Corps' authority is limited to supporting Missouri River navigation. The legislative history also shows that the reservoirs can be used to support navigation on both rivers. Moreover, the Flood Control Act of 1944 speaks about the nation's rivers, not just the Missouri River. The Corps agrees. As Col. Fastabend says in the video, the Missouri is managed to provide benefits to the nation.

Also, in 1952, the joint working group from the Bureau of Reclamation and the Corps published a report on the operation of the mainstem reservoirs. The joint report states that the reservoirs are to be operated for, quote, "the control of floods

Legal 102

25

on the Missouri River below Fort Peck Dam and to lower flood crests on the Mississippi River and to provide adequate control releases for navigation on the Missouri River and connecting inland waterways." The Corps relied on this report as recently as 1990.

Legal (con't) 102

Depletions and flow management on the Missouri River are important to Mississippi River states because the Missouri can provide as much as 60 percent of the Mississippi River's flow. A reduction in this flow support to Mississippi River navigation can be enormously costly. The reach between St. Louis and Cairo, Illinois is a transportation bottleneck, particularly during low flows. Do flow management changes impact this bottleneck? The Missouri Department of Natural Resources analysis shows that the MCP is more than four times more likely to do so than the present Master Manual.

Miss 5, 20

Flow changes have other consequences, such as more frequent channel

26

dredging, which could have disastrous impacts on fish and wildlife on the Mississippi, including the pallid sturgeon. Potential for a conflict between endangered species and Mississippi River commerce, like the contentious battle on the Alabama and Tombigbee waterways, is greater under the low summer flow and split navigation season alternatives.

Miss 25

The impact of flow management changes could be compounded by future depletions of Missouri River water. For instance, the wasteful Garrison Diversion would take Missouri River water completely outside of the basin. For years it was thought to be dead, but was reincarnated with the passage of the Dakota Water Resources Act of 2000. Congress continues to fund these boondoggles as well. On October 30th, 2001, a House-Senate conference committee approved more than $70 million in funding for North Dakota water projects, $25.5 million for the Garrison Diversion. On top of this substantial federal funding, North Dakota

Other 9, 172

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1 has set aside about $382 million from its
2 tobacco settlement proceeds to fund water
3 development projects in that state. Under
4 the National Environmental Policy Act the
5 Corps must consider reasonably foreseeable
6 future developments. This means the Corps
7 must conduct a more thorough depletion
8 analysis under NEPA.
9 We thank you for the opportunity
10 to tell you about our concerns for the
11 future of the Missouri and Mississippi
12 Rivers.
13 THE HEARING OFFICER:
14 Thank you, Mr. Kardis.
15 MR. MOORE:
16 Mike Olson.
17 MR. OLSON:
18 Good evening, Col. Krueger. My
19 name is Mike Olson and I'm here this evening
20 on behalf of the U.S. Fish and Wildlife
21 Service to issue a brief statement on the
22 RDEIS.
23 First of all, Colonel, as the
24 Corps wraps up this step in the Master
25 Manual process, I would like to commend you

Other (con't) 9, 322

28

1 and your staff for their professional
2 approach and hard work that has gone into
3 these previous 13 hearings and workshops. I
4 think that it's been a real privilege to be
5 part of most of those from the Fish and
6 Wildlife Service's perspective and we
7 appreciate the opportunity.
8 My one recommendation to you next
9 time you schedule workshops is to do a
10 little more promotion of the workshop
11 itself. You have a tremendous resource in
12 your staff here and I think that the folks
13 who spoke at the hearings up and down the
14 basin would benefit by coming first to the
15 workshop to discuss these issues with your
16 staff. I think a lot of the facts could
17 have been checked in the afternoon before
18 they were given in the evening.
19 Colonel, our agency has primary
20 authority for oversight of our nation's
21 rarest animals under the Endangered Species
22 Act. As you know, the Missouri is home to
23 the endangered pallid sturgeon and least
24 tern, and the threatened piping plover. The
25 decline of these species tells us the river

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is not healthy for its native fish and wildlife and that there needs to be a change in its management to restore the Missouri to a more naturally functioning river system.

Congress committed the Federal Government to preventing extinctions by requiring federal agencies to use their authorities to conserve endangered and threatened species. During the last 12 years, our two agencies have been working to modernize the management of the Missouri River, to help stabilize and hopefully begin to increase and recover population of these very rare animals.

This new approach was described recently in a document called the Missouri River Biological Opinion published in November of 2000. That opinion looks at the river as a system and outlines the status of these rare species, the effects of the current operation on them, and importantly, a reasonable and prudent alternative to the current operation that will not jeopardize their continued existence. Our Biological Opinion is based on the best available

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science. That includes nearly 500 scientific references. In addition, we have sought out six respected independent scientists not associated with either the Service or the Corps and these big river specialists confirm the need to address flow management as well as habitat restoration.

Further, the Missouri River Natural Resources Committee, a group comprised of state experts on Missouri River management from agencies within those states with jurisdiction and authority over fish and wildlife issues, endorses the science used in that opinion. And that was a consensus of all states.

If you have read the RDEIS summary or summary document, you understand that the GP alternatives encompass the range of flows identified by the Service as necessary below the dam at Gavins Point to keep the listed species from being jeopardized. Our agency and the Corps also recognized the importance of some flexibility in management that would enable Missouri River managers to capitalize on existing water conditions to meet

31

endangered species objectives without having to go through another 12-year process.

Other management changes identified in the opinion included a spring rise out of Fort Peck Dam, an improved pallid sturgeon hatchery operation, restoration of approximately 20 percent of the lost aquatic habitat in the lowest one-third of the river, intersystem unbalancing, and acceptance of an adapted management framework that would include improved overall monitoring of the river.

In closing, my agency supports the identified goal of the revised Master Manual, to manage the river to serve the contemporary needs of the Missouri River Basin and nation. These needs include taking steps to ensure that endangered and threatened species are protected, while maintaining many other socioeconomic benefits being provided by the operation of these dams.

The Service stands behind the science used in the opinion and we are confident that the operational changes

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identified and included in the RDEIS as GP alternatives, will ensure that these rare species continue to be a part of the Missouri River's living wildlife legacy.

As mentioned in your introductory video, the Missouri is indeed a tremendous river with a significant and revered heritage. Our influence has altered that river greatly and changes are needed to modernize and restore the health to that river for the benefit of rare species and for the people of the basin and nation as well.

Thank you.

THE HEARING OFFICER:

Thank you, Mr. Olson.

MR. MOORE:

Beverly Ethridge.

* * *

BEVERLY ETHRIDGE, U.S. Environmental Protection Agency, made the following statements:

MR. ETHRIDGE:

Col. Krueger, my name is Beverly Ethridge. I work for the U.S. Environmental

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Protection Agency. My questions or comments pertain to the completeness of the document. I have not read the larger text and I came in late, so you may have already covered this.

First, I would like to start with water quality in the lower river. As you no doubt are aware, we have a tremendous hypoxic area in the Gulf and there's tremendous contribution to that area from midwest agricultural operations and in spite of EPA's and the Department of Agriculture's efforts at BMPs and improved technology, there is still quite a lot of nutrients coming down. So my question is whether you have addressed any changes, whether plus or minus, that might occur as a result of your operations planning?

A similar question for downriver regarding sediment, and my question there simply is whether your management plans will alter sediment loading in the river? If it does alter it, will it be plus or minus? And in either case, does that effect fine or course grains more?

Miss 31

34

Thirdly, I'm sure you're aware of the requirement within the Coastal Wetlands Planning Protection and Restoration Act for consistency of federal projects, particularly navigation and flood control energy, that sort of thing, to ensure that no activities would in any way conflict with the goals of this act. A "quipper," (phonetically spelled) we call it here.

Legal 103

We are, in this part of the land, embarking on unprecedented efforts at redistribution or reintroduction of river flow to the coastal wetlands to restore them and certainly maintaining flow is very critical for those reasons.

Miss 40

This affects as well, the fact that we send 30 percent of our water down the Atchafalaya each year and that's important for that ecosystem. So again, just reduction in flows, recognizing that we have some peak flows that we would like some help with perhaps, but an overall reduction in flow could cause us some problems.

That's it. Thank you.

THE HEARING OFFICER:

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Thank you, Ms. Ethridge.

MR. MOORE:

Pat Riley.

* * *

PAT RILEY,

Port Captain for Canal Barge Company, made the following statements:

MR. RILEY:

Hello, my name is Pat Riley and I'm the Port Captain for Canal Barge Company. Canal is one of the largest independently owned and operated barge lines in the United States. We employ over 300 mariners and 100 shoreside staff and are headquartered in the New Orleans area. We operate on most of the navigable waters in the United States and are one of the larger long-haul carriers.

I would like to express our company's extreme concern about the proposed changes to the Missouri River Master Water Control Manual. Wise management of the Missouri River flows is essential to the efficient, effective, and profitable functioning of the inland mode of

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transportation on the Mississippi River system. The key to our transportation mode's success is safe, reliable, cost-efficient movement of bulk commodities. Because the Missouri River accounts for over 60 percent of the Mississippi River water volume between St. Louis and Cairo, Illinois, reduced flow in late summer and early fall could bottleneck the flow of riverborne commerce at a critical time. This will greatly disrupt the flow of grain shipments for export, as well as the flow of petroleum and petrochemical shipments from the Gulf Coast to manufacturing facilities and distribution centers in the St. Louis and Chicago areas.

The entire cost structure and dependability of our industry is premised on high levels of utilization of our equipment. Year-round operation and maximum draft and tow sizes are keys to our success. We and our customers are in extremely competitive businesses. We cannot tolerate significant periods of disruptions or inefficiencies. The less reliable, more expensive river

Miss 4

37

1 system will cause shippers to either lose
2 their ability to compete in their markets,
3 or to change shipping patterns to alternate
4 modes of transportation. Either of these
5 scenarios will result in job loss and
6 business failures up and down the
7 Mississippi River system.
8 The inability to access our
9 primary markets in St. Louis and Chicago, as
10 well as ports along the upper Mississippi
11 River, would greatly debilitate our
12 business, thus compromising Canal Barge
13 Company's employees, customers, and
14 suppliers. These costs are far too great
15 for the unknown or perceived benefits of the
16 various options proposed as alternatives to
17 the current Missouri River Master Water
18 Control Manual.
19 Thank you.
20 THE HEARING OFFICER:
21 Thank you, Mr. Riley.
22 MR. MOORE:
23 Chris Brescia.
24 * * *
25 CHRIS BRESCIA,

Miss 4 (con't)

38

1 President of MARC 2000, made the following
2 statements:
3 MR. BRESCIA:
4 Colonel, my name is Chris Brescia.
5 I'm President of MARC 2000. I would like to
6 take this opportunity today in New Orleans
7 to summarize a lot of the key points that I
8 think you've heard in the course of your
9 hearings and to also characterize, at least
10 from our point of view, some of the comments
11 that have been made by many of our
12 stake-holder groups.
13 First, with respect to the
14 navigation, we are very concerned that the
15 shifting of water flows under the MCP and
16 the GP plans radically alter the low
17 reference point, the low water reference
18 point, specifically in the Port of St. Louis
19 and the middle Mississippi. We think that
20 the analysis that's been done on that effect
21 is incomplete. While you've identified the
22 fact that there are dredging costs that are
23 likely to emanate, I'm not quite sure that I
24 read in any of your documentation that you
25 truly looked at the environmental impact of

Miss 22

39

1 such an action.
2 My discussions with the Illinois
3 Department of Conservation reveals that
4 dredging, particular in the month of June,
5 which is what would have to happen,
6 especially in the low flow alternatives, the
7 GP alternatives, that traditionally is done
8 in July, August, and September, would be
9 extremely devastating to many species,
10 especially spawning near areas in the middle
11 Mississippi.
12 We are already challenged to meet
13 our obligations to the species in this
14 region and I think it would be misguided if
15 we did not have that complete analysis
16 before a final decision is made.
17 I would like to reiterate some of
18 the concerns we have about how the data is
19 presented, especially in an aggregated
20 format and executive summary. I think that
21 it's very hard for people who are concerned
22 about their livelihoods, it's very hard for
23 people who are concerned about sustaining
24 economic activity to recognize that there
25 are significant impacts that happen on an

Miss 41

40

1 annual basis that lead to business
2 foreclosures and consolidation due to low
3 profitability that are not reflected in the
4 average annual analysis that is presented to
5 the public.
6 We've already talked about the
7 fact that there are major event years that
8 totally change, if withdrawn from the
9 analysis. If one year of Mississippi River
10 impact data is withdrawn from the analysis,
11 it totally changes the picture into one of
12 increased costs for the Mississippi River
13 for most of the alternatives, other than the
14 current Water Control Plan. That needs to
15 be assessed within the context of real world
16 impacts. And we have to relook again at
17 some of the economic assumptions.
18 It is interesting to me as someone
19 who has followed the type of assumptions
20 that the Corps uses in their economic
21 methodology to find that there is an
22 expectation that no traffic will be diverted
23 as a result of any of these plans when, in
24 fact, that seems to be a bone of contention
25 in other parts of the Mississippi River

Miss 30

Miss 39

41

1 system. Because if there is diversion, then
2 we need to look at that modal impact
3 analysis and what that means both to the
4 social cost of the rejoin and the
5 environmental cost of the region.
6 And then, of course, there is the
7 age-old debate over recreation versus
8 navigation and how they're valued. To use
9 the next alternative means of costing out
10 navigation compared to a day-per-use means
11 of recreation, doesn't allow us to have a
12 true comparison of these values. If
13 recreation were to be analyzed on the same
14 basis as navigation, we would find very
15 little in the way of any deep benefits that
16 would be affected by any of these plans.
17 Then there's the issue of what
18 some have called controlled flooding. In
19 your own video, you talk about the
20 unpredictability of the Missouri River. I
21 think the Corps of Engineers deserves a lot
22 of credit for trying to model these very
23 hard concepts that we're discussing and
24 analyzing. But to have a model that hinges
25 on such sensitive assumptions and on being

Miss 39 (con't)

Other 10, 9

FC 8

42

1 correct and accurate with a low degree of
2 risk factored in gives me great cause for
3 concern because I know of the
4 unpredictability of the river system. And
5 to have policy decisions and future changes
6 made based on a model run alone is one that
7 needs to be reevaluated.
8 Down basin, especially from Sioux
9 City, Iowa to New Orleans, you haven't heard
10 any support from the flood control community
11 for these alternatives. You haven't heard
12 any support from folks affected by internal
13 drainage. You have heard, in fact, "hell
14 no" type of support from the navigation
15 community. Even the hydropower community
16 which stands, according to your analysis, to
17 benefit, on the average is very concerned.
18 The water safety community is not happy with
19 what you have. And in the recreation
20 community, it's only in the upper basin
21 reservoirs where you see a benefit. You
22 actually see a decline in some of the
23 river-based areas.
24 I talked about Mississippi River
25 impacts, the need for a modal shift, the

FC 8 (con't)
IntD 11

Rec 10

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fact that we've gotten in some cases representation of extreme events that need to be highlighted so people understand that these are real impacts and not eliminated through a statistical average.

And then finally, I guess I come to a point that I think many people are going to judge this on, and that is trust. That is whether or not they have a trust in the documentation that's been put forward, the common-sense impact. It's counterintuitive to people on the Mississippi River to think that they're going to receive less water from the Missouri River, yet the impacts are going to be beneficial to the Mississippi.

I believe very strongly that the people that you have on your team have put a lot of good faith effort into putting the best available information that they have together, that their intentions are honorable and professional and that they've done their best to be as accurate as they can, but I believe that in presenting the information the way we have, it misleads

Miss 4

44

people into truly appreciating the changes that might be coming down the pike. I think that the biggest, most pronounced area where this needs to be incorporated and reviewed and presented again to the public at another time is a true representation of depletions, because any sort of assessment that we do, a foot one way or the other, makes a big difference.

And we have to factor this in, the Indian tribes have rights to water that have not been factored into these analyses. Depletions need to be run for all of the documents because in the end analysis, Colonel, I think that if the model is wrong, if the unpredictability does occur, it's the depletion analysis that will help us understand the extreme possibilities of what we have to deal with, and that's necessary to reach a good conclusion.

I want to thank you very much for your attention. I apologize for exceeding my five minutes, but this is the last you will see of me this week.

Thank you, sir.

Other 9

45

THE HEARING OFFICER:

Thank you, Mr. Brescia.

MR. MOORE:

Roger Harris.

* * *

ROGER HARRIS,

Operations Director for Magnolia Marine Transport Company, made the following statements:

MR. HARRIS:

Good evening. My name is Roger Harris. I'm the Operations Director for Magnolia Marine Transport Company based out of Vicksburg, Mississippi. I'm here tonight to share our point of view on these proposed changes to the operations of the Missouri River. Magnolia Marine currently operates 16 towboats and approximately 65 petroleum tank barges. We are the nation's largest mover of liquid hot asphalt. Our company employs approximately 230 people who mainly reside in the midsection of this company.

We have two boats and four barges that operate primarily on the Missouri River. These two boats together employ

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approximately 26 full-time employees. The other 14 boats work throughout the inland rivers including the lower end of the upper Mississippi River from St. Louis to Cairo, Illinois. Each year on the Missouri River alone, we transport an average of 220,000 tons of asphalt between St. Louis and Kansas City, Missouri.

Nav 23, 49

Breaking these tonnage figures down, if navigation is hindered by the proposed changes in the Missouri River operations, this would equate to approximately 2,300 additional railcars per year moving through Missouri neighborhoods. Continue with this breakdown, this yearly tonnage figure would also equate to 9,000 additional semi-trucks on Missouri highways.

And we are but one small company that operates on the Missouri. Destroying navigation on this great river would also present a detrimental economic impact on the citizens who not only hold these jobs, but also the jobs of the people who produce, handle, and use the cargoes that we transport on the Missouri.

47

Miss 4

Another point of concern for our company is the effect that reduced flows from the Missouri River would have on the lower end of the upper Mississippi River. Currently, 45 percent of our customer base is in the St. Louis area. Since the Missouri River contributes as much as 60 percent of the water that flows from St. Louis to Cairo, Illinois, changes in the Operations Manual could also have a detrimental effect on navigation of that area. With reduced drafts, delays, and increased aids to navigation this stretch of river would require, we feel this would present another negative economic effect on the entire Mississippi River Basin.

To sum this up in one statement, we at Magnolia Marine Transport Company are opposed to any changes in the operations of the Missouri River.

Thank you.

MR. MOORE:

Cynthia Sarthou.

* * *

CYNTHIA SARTHOU,

48

Executive Director of the Gulf Restoration Network, made the following statements:

MS. SARTHOU:

My name is Cynthia Sarthou and I am Executive Director of the Gulf Restoration Network. We are a network of groups from Texas to Florida that work on the preservation and restoration of the Gulf ecosystem.

We are concerned for several reasons about this: One is the -- essentially, I commend the Corps for once considering wildlife and fisheries in its analysis and I am concerned, as in most cases, that navigation alone not be given the greatest consideration in the Corps' determination of fluctuations in dam flow on the Missouri River. I think it is very important that you give significant consideration to the three endangered species in this instance and to fish and wildlife in general in those areas. Restoration of habitat and restoration of flows is critical to the survival of many species, both on the Missouri River and on

EnSp 3,1

49

the Mississippi River.

We are also a group that works on the Dead Zone issue and have been working for a long period of time to bring that issue to the forefront and to get action to address it. And we would like to ask that in the final EIS, you consider any impacts that changes in flow will have on the Dead Zone, including increases or decreases in fertilizer transport -- well, in nitrogen transport through river flows.

Miss 31

And, finally, we are concerned about restoration efforts in the lower Mississippi River and the impact that changes in flow would have on restoration efforts and we would ask that the final EIS address that as well.

Miss 40

Thank you.

MR. MOORE:

Jeff Kindl.

* * *

JEFF KINDL,

Vice President with River Barge Excursion Lines, made the following statements:

MR. KINDL:

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Good evening. My name is Jeff Kindl. I've Vice President with River Barge Excursion Lines. We operate the only hotel barge on the Inland River System. We're based in New Orleans. We have 98 staterooms on one barge and the public accommodations on the second barge. We're pushed by a 3,000-horsepower towboat and we operate in over 3,000 miles of the Inland River System.

During the month of August, we operate in the Missouri River. We're the first overnight passenger vessel on the Missouri River in well over 100 years. In the past three years, we've brought over 1,500 people to the Missouri River, stopping at approximately 14, 15 towns along the way, bringing tourism to those towns. This year we made two trips up to Omaha. Next year we plan on going up to Sioux City.

Any alteration of the flows out of Gavins Point with a negative impact to navigation is unacceptable to us. August is the most reliable month that we can sail on the Missouri because of height restrictions and the concern of getting caught behind a

Nav 49

51

bridge due to high water because of raised elevations due to a storm or something like that coming through.

If, in fact, the flows are changed and navigation is eliminated on the Missouri, these products are going to move anyway, either by truck or rail. Do we need more trucks on Interstate 70 in Missouri or Interstate 80 in Iowa? I think not. Do we need more trains? There's 46 trains a day that go through the town of Washington, Missouri. As you've heard the other speakers say, the Missouri puts in somewhere around 60 percent of the river into the Mississippi right above St. Louis. Low flows there risk choking it off, choking off the upper Mississippi up to St. Paul, the Illinois River up to Chicago, at a time when shippers are trying to get their products up there before harvest and get the harvest out.

Perhaps on the pallid sturgeon, there might be more pallid sturgeon had the nonnative walleyed pike not been introduced to the Missouri, which the walleyed is one

Nav (con't) 49

Nav 23

Fish 14
EnSp 28

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of the most veracious predators of any of the fish. And besides there being negative impacts on navigation, you would have negative impacts on drinking water, power generation, cooling water, flood controls and even as your film said earlier, on recreation between Sioux City and Omaha.

I think that's about it then. Thank you very much.

THE HEARING OFFICER:

Thank you, Mr. Kindl.

MR. MOORE:

Ken Wells.

* * *

KEN WELLS,

Southern Region of the American Waterways Operators, made the following statements:

MR. WELLS:

Good evening. I'm Ken Wells. I represent the Southern Region of the American Waterways Operators. We are the national trade association for the tugboat, towboat, and barge industry. Thank y'all for coming down to New Orleans. I hope it was not a difficult trip for you. I hope

53

you don't mind being here.

I also represent the -- I serve on the board for the Greater New Orleans Barge Fleeting Association. Which is also barge and towing related, but has the distinction of representing the small businesses primarily that hold barges once they come to New Orleans and then ship them back and forth to terminals. As I say, these are largely small businesses, who would be negatively impacted by anything that hurts the Mississippi.

It has been pointed out that the rainfall on the planes and flows in the Missouri River eventually make its way to New Orleans. That water flowing off the Missouri joining up with the waters of the Ohio, the Illinois, and the upper Mississippi create one of the most effective, efficient water transportation systems in the world.

Our concern here in New Orleans is that five of the six options under consideration for the Missouri River Master Plan could do serious harm to Mississippi

Miss 4

54

River transportation and that your analysis of those options may not accurately measure the damage that could be done if one of those options is chosen.

We support the sixth option, the CWCP option. We're afraid that these other options may lead to situations in which low water off the Missouri combines with low water seasons off the Ohio and upper Mississippi to result in reduced traffic on the Mississippi or perhaps even no traffic on the Mississippi for a period of time. Your studies indicate that lower levels on the Missouri would coincide with low water off those other rivers every once in a while.

What it sounds like is that with five of these six plans, we would be turning barge traffic on the Mississippi into a game of chance. That we would turn it into a crap shoot in which every year, we would hope that the odds aren't stacked against us. Barge lines can't operate like that. Midwestern farmers can't operate like that. Our export markets can't operate that way.

Miss 4 (con't)

55

The Japanese importer who is told that we can't deliver his grain as promised because we goofed on our Missouri River flow model may not be back for the next year's harvest.

For nearly 100 years, the Corps has had a mission of maintaining navigation on the Mississippi River and none of us can walk away from that obligation. We also should not ignore the economic impact of threatening navigation on the Mississippi. That means that the Corps should look at the total impact, including the impact on the upper Mississippi, including the impact on the Illinois, including the impact on shippers, including the cost of increased shipping rates for other modes if that cargo is forced off the river or if the river option is not open.

Miss 4

One other area that needs to be looked at is the effect of sending that cargo by other modes. How many more accidents on the highways? How many more train accidents? How much more air pollution? How many more delays? How many more fatalities?

Miss 40

56

Another area that needs to be looked at is the impact that this has on the barge industry which is largely a capital intensive, leveraged industry. The barges are owned, but they're often leased. It involves borrowed money. If traffic stops, the loans still have to be paid, the leases still have to be paid. It also creates significant logistical nightmares. We are now living in a world where we are in a web of commerce involving a lot of different rivers and what seems to be an impact on just the Missouri can affect every waterway system that we operate on.

Nav 49

And, finally, to speak on the Missouri for just a moment, we cannot pretend for a minute that a split season on the Missouri is a viable option. Our experience has been that once a waterway is forced to hold navigation windows, its future is threatened and it has to fight for its survival. The decline may not be immediate, but it is inevitable and the decision to split the season on the Missouri is likely to be a decision to kill

Nav 12

57

navigation.

So we urge you to choose the CWCP option. We feel it is the only option that does not damage navigation and perhaps the nation's economy.

Thank you for allowing me to speak.

THE HEARING OFFICER:

Thank you.

MR. MOORE:

Mark Davis.

* * *

MARK DAVIS,

Executive Director of the Coalition to Restore Coastal Louisiana, made the following statements:

MR. DAVIS:

Good evening. My name is Mark Davis and I'm the Executive Director of the Coalition to Restore Coastal Louisiana.

I think you've already heard a fair amount about the basic topic that I would like to speak to you about this evening and that is our greatest concern about the Revised Manual and the Revised

58

Draft Environmental Impact Statement is its completeness as it pertains to the Mississippi River.

I won't pretend to be an expert on navigation and I won't have any opinions on that topic. But I do believe that it is important to recognize, as the video said, that the Missouri River is everyone's river. We agree with that. We think it is in part ours because as the gentleman from the Missouri Attorney General's office indicated, some of the water that's going by just a couple of blocks from here originated in Missouri. Some of the land we're standing on right now also once came from the Missouri River system. This is an integrated system and though the Corps of Engineers by its authority tends to manage them as distinct entities, nature doesn't make those distinctions and those of us who live down here can't make them either.

I think it's important to recognize that as you look at the Missouri River plan, it has to fit into a broader context. It's a context unlike those that

Other 323

Legal 103

59

Other 323

Legal 103

you found the last time you did major planning. In fact, I think the last time I addressed this particular -- your division was on this topic about six years ago. At that time, we urged the same thing that Beverly Ethridge from the Environmental Protection Agency did, which is that you pay close attention to the plans that are being drawn for the restoration of coastal Louisiana because we believe that it is not only a matter of interest, we believe it is a matter of legal obligation. We believe that NEPA and the Coastal Wetlands Planning Protection and Restoration Act create binding obligations on you to consider the effect of your plans on our plans.

Now, I would point out that on Monday of this week, the New Orleans District of the Corps of Engineers announced that they will begin scoping of a study to look at the massive change in the way the lower Mississippi River is managed. We don't yet know what that means, but it does entail at least looking at separating navigation.

60

Miss 31

As you may know, coastal Louisiana is disappearing. The things that you tend to manage on the upper river are water and users. We are very interested in how you manage water quality and sediments. Because since the dams were completed on the Missouri River, we've lost about 50 percent of the sediment load in the Mississippi River and that is an essential building block of South Louisiana. That is not merely a parochial interest, because you've been asked to consider, I guess, the broader impacts of a water level shift of about a foot on navigation.

We would also urge that you question the assumption that if you do not integrate this planning, that there will, in fact, be a viable New Orleans or a physically sustainable South Louisiana for any of that traffic to come to.

I would suggest that if you have not looked at the "Scientific American" from two weeks ago, that you do. There was a major article on exactly that topic. We would ask, I guess, specifically the

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1 question of how you plan to reconcile the
2 Missouri River Master Plan with the plans
3 being developed under the Coastal Wetlands
4 Planning Protection and Restoration Act and
5 the Hypoxia Action Plan and with the
6 feasibility studies now being advised by the
7 New Orleans District of the Corps of
8 Engineers here.
9 And we ask for closer
10 coordination. I confess I've not had the
11 opportunity to read the full Revised Draft
12 Environmental Impact Statement and most of
13 us only learned of this meeting within the
14 last 24 hours. It's not much time to
15 provide relevant comments and certainly not
16 much time to make sure that we're all on the
17 same page and that's where we need to be.
18 Thank you.
19 THE HEARING OFFICER:
20 Thank you, Mr. Davis.
21 MR. MOORE:
22 Joseph Cocchiara.
23 * * *
24 JOSEPH COCCHIARA,
25 Board of Commissioners of the Port of New

Miss 31, 40

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1 Orleans, made the following statements:
2 MR. COCCHIARA:
3 Good evening. My name is Joseph
4 Cocchiara and I'm with the Board of
5 Commissioners of the Port of New Orleans,
6 which is the Greater New Orleans Port
7 Authority. Colonel, thank you for coming to
8 New Orleans and thank you for this
9 opportunity to address your hearing.
10 Any plan for the Missouri River
11 that significantly reduces flows in the
12 Inland Waterway System in the lower
13 Mississippi River during periods of natural
14 low flow can have very far-reaching
15 consequences, both economic and
16 environmental. Considerable transportation
17 assets of Louisiana's lower Mississippi
18 River ports enable mid-America's farms and
19 industries to play a vital role in the
20 international commerce of this nation.
21 In 1999, the region's ports and
22 port facilities handled 230 million tons of
23 foreign waterborne commerce. Valued at
24 $35 billion, this cargo accounted for
25 18.4 percent of all the nation's

Miss 4

63

1 international waterborne trade and
2 27 percent of all U.S. exports. Bulk cargo
3 primarily consisting of tremendous grain and
4 animal feed exports and petroleum imports
5 made up 82 percent of this volume.
6 Approximately 53 million tons of
7 grain from 17 states, representing
8 55 percent of all U.S. grain exports, access
9 world markets via the ten grain elevators
10 and midstream transfer facilities on the
11 lower Mississippi River. The same port
12 complex received 87 million short tons of
13 petroleum and petroleum products, 15 and a
14 half percent of all U.S. waterborne imports
15 of petroleum products.
16 In 1999, foreign waterborne
17 imports handled at all Louisiana ports on
18 the lower Mississippi totaled 127 million
19 tons. In the same year, foreign waterborne
20 exports totalled 102 and a half million
21 tons. And in that same year, Louisiana
22 ports on the lower Mississippi handled
23 245 million tons of domestic waterborne
24 commerce. The domestic commerce accounts
25 for more than 57 percent of the total

64

Miss 4

1 traffic on the lower river.
2 That's a total of 474 million tons
3 of foreign and domestic waterborne commerce
4 handled at Louisiana's lower Mississippi
5 River ports, making it the largest,
6 demonstrably the largest port complex in the
7 world. And the vast majority of this
8 waterborne commerce depends directly upon
9 the continuing viability and dependability
10 of the Mississippi River and the Inland
11 Waterway System. The economic impact of
12 this commerce on just the State of Louisiana
13 is astounding.
14 Louisiana ports on the lower river
15 generated $26 billion of total spending,
16 212,000 jobs, and $4.2 billion of wages in
17 the state economy and that's just in
18 Louisiana.

Miss 40

19 Reduced flows on the Mississippi
20 could seriously affect not only the economy
21 of the State of Louisiana and the nation,
22 but also its municipal water supplies here
23 in New Orleans and the lower river and the
24 industrial process and cooling water
25 supplies on the lower river. Reduced river

65

levels can permit saltwater intrusion from the Gulf to reach water intakes on the lower Mississippi as far as New Orleans and beyond.

Miss 40

Finally, I would like to reinforce a couple of the comments that were made previously by others. First, any reduction to Missouri River flows will adversely affect environmental restoration activities in coastal Louisiana to the reduction of freshwater and silt load in the river. And, secondly, any commerce that is not able to be shipped on the river system will be moved by rail or truck at a much higher cost in congestion and in air pollution.

Miss 31, 40

Nav 23

Thank you very much.

THE HEARING OFFICER:

Thank you, Mr. Cocchiara.

MR. MOORE:

Neil Armingeon.

* * *

NEIL ARMINGEON,

Lake Pontchartrain Basin Foundation, made the following statements:

MR. ARMINGEON:

66

Good evening, Colonel. My name is Neil Armingeon. I'm with the Lake Pontchartrain Basin Foundation based in New Orleans. We're a citizens group. Our focus is the restoration and protection of Lake Pontchartrain Basin. I appreciate the opportunity to come here and speak before you tonight.

I'm sitting here realizing, I think I've actually grown up my entire life under the auspices of the Lower Mississippi Valley Division. So I appreciate you guys coming down here. I actually commend you. You do business slightly different than our friends in Vicksburg, so I will also commend you on that.

I'm not going to sit up here and try to tell you that I know a lot about this, although I have an interest in it. As you said in your nice video, that the river belongs to all of us as Lake Pontchartrain does. I invite you, next time you're down here, to come look at a beautiful body of water, Lake Pontchartrain.

We are concerned, as Mark said, we

67

are very concerned about land loss in our state and it is very encouraging to hear all the people from out of Louisiana concerned about our environment and I appreciate hearing about that tonight. It's also nice to hear all these diverse groups worrying about air quality, water quality, and that's also encouraging to us.

Miss 31, 40

A couple of things. We believe that the Corps has a dual a mandate. Yes, navigation is important to this country, especially to this part of the world, but also the resources of this country are important. The Missouri River is something other than a navigation body of water. We believe the flexible flow alternative, I think you call it GP2021, is an option that recognizes the goals that the gentleman from Fish and Wildlife Service mentioned and we believe it gives the Corps the authority and the flexibility to prevent species extinction, to also support recreation and tourism, and also to maintain navigation.

Other - A

Furthermore, following up, the Missouri does belong to all of us and in our

68

opinion, as with a lot of the bodies of water in this country, it has been maintained solely for the needs of a single industry -- navigation. We think it's time now to expand that vision. We also think it's time for you to consider the downstream needs of Louisiana and that includes sediment. There is a lot of land trapped behind those dams and we would ask that you consider that when you decide what you're going to do with this.

Miss 31

Finally, I've heard a term tonight I really wasn't that familiar with -- "depletion." It's an interesting term. As I said, I spent most of my life, all my adult life in the Southeast and I've been chasing navigation projects in one form or another. And, actually, the word "depletion," in my opinion, varies somewhat how it's used tonight because a lot of the resources, water resources, in this country have been depleted. The habitat value, the water quality value, the recreation value, they have been depleted for the needs of the navigation industry.

69

So I would like you to think about the term "depletion" in one different way than it's been mentioned tonight in not looking at the needs of a single industry, but the needs of this country for wildlife and fisheries resources that cannot stand up here and speak to you tonight.

I very much appreciate the opportunity to speak. Thank you.

THE HEARING OFFICER:

Thank you, Mr. Armingeon.

MR. MOORE:

Darryl Malek-Wiley.

* * *

DARRYL MALEK-WILEY,

Chairman of the local New Orleans group of the Sierra Club, made the following statements:

MR. MALEK-WILEY:

Good evening. My name is Darryl Malek-Wiley. I'm the chairman of the local New Orleans group of the Sierra Club. The Sierra Club will be putting in written comments in addition to my statement here tonight. We appreciate the Corps coming

70

down and talking to us here in New Orleans about the Missouri River. Too often in the past, decisions made on the upper Mississippi, the Missouri, and the Ohio that impact us here in Louisiana have been made without our input or comment. We appreciate your coming down here.

We feel that the alternatives under the RDEIS, the flexible flow plan, I think you entitled it GP2021, is the alternative that we would like to see incorporated. We feel it gives the Corps the flexibility to do a number of different things and we will be putting in more written comments to support that.

Other - A

I would echo the comments of a number of my colleagues here in Louisiana. We're very concerned about the sediment that's being locked up behind the dams and we would like to see that sediment brought to Louisiana. As Mark Davis said, you're probably standing on some of the best topsoil of the midwest right now. That's what built Louisiana and we want to use that in continuing to build Louisiana and

Miss 31

71

Miss 31 (con't)

continuing to develop and renourish our wetlands and our wetland resources in the terms of fisheries. That's an area -- Louisiana has a tremendous fisheries income and we'll get together some detailed information on the landings and things like that, but with coastal restoration, we're working to keep and improve our wetland fishery activities going on.

Other - 42

We would like the Corps to look at the Mississippi River and have advocated -- personally and the Sierra Club -- looking at the Mississippi River ecosystem, meaning that you need to look at the Mississippi, the Ohio, the Illinois, the Missouri all as one system rather than just broken up into, you know, Corps plan, you know, you have your districts here and there. You need to look at the whole ecosystem as a more natural system. That's something that we would like to see happen in the future.

I know that the Environmental Protection Agency has put together a letter, at least they're trying to look at the Mississippi River Basin and have an internal

72

Other - 14 (con't)

task force going on that. So we would like the Corps to look at the basin from the Appalachians to the Rockies. You need to look at the whole system rather than just one district's little piece. We believe that the Missouri River is everybody's river and we're especially interested here in Louisiana about the flows and making sure we have that flow down here.

We thank you very much for coming down tonight. Hope you get a chance to go out and see some of the Mississippi River on the Riverwalk.

Thank you.

THE HEARING OFFICER:

Thank you, Mr. Malek-Wiley.

At this point, all those who have submitted a card have been called on to give their statements. Is there anybody else that wishes to make a statement this evening?

(No response).

THE HEARING OFFICER:

With no one else indicating they would like to make a statement, we will

bring the hearing to close. I would like to remind you that the administrative record will be open, again, through the 28th of February, 2002 for anyone wishing to submit written facts or electronic comments. And, again, if you want to be on our mailing list to receive a copy of the transcript, you need to fill out one of the cards available at the table by the entrance.

Ladies and gentlemen, I thank all of you for coming tonight and showing your interest in this very complex and important issue and for providing valuable information which I can assure you we will consider in making a decision on which Master Manual Plan to select for the Missouri River Mainstem System operation framework. Please drive safely as you return to your homes. Thanks again for coming.

(Whereupon, the proceedings were concluded.)

* * *

REPORTER'S CERTIFICATE

I, Diane Tewis Clark, RPR, RMR, certified Court Reporter, State of Louisiana, do hereby certify that the above proceedings was reported by me in the stenotype reporting method and transcribed thereafter by me on computer, and that same is a true and correct transcript to the best of my ability and understanding;

That I am not of counsel, nor related to counsel or the parties hereto, and in no way interested in the outcome of this matter.

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MAY-28-99 16:23 FROM

STATE OF MISSOURI
WASHINGTON, D.C. OFFICE

MEL CARNAHAN
GOVERNOR

HALL OF THE STATES
400 NORTH CAPITOL ST., SUITE 379
WASHINGTON, D.C. 20001
(202) 624-7725

SUSAN HARRIS
DIRECTOR

May 28, 1999

Lt. General Joe N. Ballard
Chief of Engineering
U.S. Department of the Army
2600 Army Pentagon
Washington, D.C. 20103-2600

Dear General Ballard:

Our states continue to consider and evaluate the proposed Missouri River management alternatives as presented in the Preliminary Revised Draft Environmental Impact Statement (PRDEIS) of September 1998. As you are aware, the Missouri River exerts a vital influence on the health and prosperity of our states. Consequently, the information sharing partnership between the federal government and the states is critical to the success of revising the Missouri River Master Manual to benefit Missouri basin needs as well as the needs of Mississippi River states.

Workshops held by the Corps of Engineers (COE) have allowed for a better understanding of the Missouri River system and how proposed changes impact stakeholders. The COE has provided the basic modeling data for the various proposed river management alternatives that many impacted parties have been evaluating for more than six months. However, we have recently learned that some of the information presented in the PRDEIS by the COE was incorrect because of modeling inadequacies, modeling assumptions, or other problems.

Thanks to the COE staff, the problems are being corrected and new results are being generated. We understand that the new data will be shared, as it becomes available, and that the previously reported impacts will be different for some of the alternatives. Unfortunately, it is extremely late in the process to be confronted with amended information. In order for the states to have a chance at consensus, we need more time.

In light of the new data that is being generated, much of which we have not yet seen, we need sufficient time to examine the new results and understand their implications. We are therefore requesting a 90-day extension in the informal review period for reviewing the data and identifying a solution. This time extension would also allow the previously requested incremented depletion

modeling to be completed and reviewed so that everyone may understand depletion impacts particularly in regard to Mississippi River commerce and Midwest agriculture.

We realize that upstream and downstream interests are working together with the COE toward a solution and we want to encourage this cooperation. This 90-day extension would allow the citizens of our states until August 31, 1999, to review the new and revised models and propose a preferred alternative. We strongly encourage your favorable consideration of this request. Thank you for your attention to this important matter.

Sincerely,

Mel Carnahan
Governor
State of Missouri

Thomas J. Vilsack
Governor
State of Iowa

George Ryan
Governor
State of Illinois

March 22, 2001

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

As governors of states along the Mississippi River, we are writing to express our concern about management changes proposed for the Missouri River. Major changes are being considered without documentation of their full effects or input from the impacted states outside the Missouri River Basin. The Missouri River flows into the Mississippi River immediately upstream of the second largest inland port in our nation – St. Louis. The stretch of the Mississippi River between St. Louis, Missouri and Cairo, Illinois is often referred to as the "bottleneck reach" because of the need for flow support to provide for transportation needs. During periods of low flow in the Mississippi River, the Missouri River provides as much as two-thirds of the water to the "bottleneck reach" of the Mississippi River supporting navigation and other beneficial uses of the river.

The U.S. Army Corps of Engineers is preparing a new plan for the operations of the Missouri River. The proposals under serious consideration include higher reservoir levels that would actually decrease flexibility in managing this complex system for flood control and other project purposes. The Corps' Northwest Division's "Preferred Alternative" would shorten the navigation season on the Missouri River by 27 days and reduce the reliability of navigation on the Mississippi River during a critical period in the late fall. An analysis of the last 100 years of records shows that, under this alternative, fall cutbacks would have occurred in 35 out of 100 years. This is over four times more often than under the current water management plan. In addition, six years would have had no navigation season compared with one under the current plan. Had this proposal been in effect during the year 2000, water levels at St. Louis and in the "bottleneck reach" of the Mississippi River would have been two to three feet lower for a period of 27 days in November. The other proposals being discussed vary slightly in detail, but would result in similar impacts.

Depletions of water from the Missouri River continue to increase as demands for water grow. These depletions increase the adverse impacts of the alternative on downstream reaches of the Missouri River and the Mississippi River. Depletions exacerbate the situation by increasing the frequency of shortened navigation seasons and years with no navigation. By lowering the total amount of water in the Missouri River reservoir system, these depletions would reduce

releases from the reservoirs, particularly during low precipitation. These years are often the same years that the Missouri River provides critical flow support to the "bottleneck reach".

The effects of the alternative and increased depletions greatly amplify the impacts of either one considered in isolation. They would prove harmful to Midwest agriculture, the ports from St. Paul to New Orleans and industries that rely on the Mississippi River to move their products and represent a serious blow to our nation's economy.

In addition to these considerations, the U. S. Fish and Wildlife Service has proposed an increased spring rise and a period of low flow in the summer to help three endangered and threatened species. If implemented, this would further exacerbate the effects of higher reservoirs and depletions. We support addressing endangered species issues in a reasonable manner that considers all environmental and economic issues. Substantial gains have been realized for the same species on the lower Mississippi River using creative habitat restoration without any change in river flow. This approach has succeeded without the disruption of normal river operations.

We urge you to ensure that decisions are reached on the operations on the Missouri River only with the direct involvement of all those states that rely on the Inland Waterway System. It is important that the Corps offer a briefing to all the Mississippi River states on the full effects of these proposals, including reasonably anticipated future depletions. We request that you direct the Corps to analyze the effects of the Fish and Wildlife Service proposals and reasonably anticipated depletions on the entire Mississippi River system and the compounded effects of these changes on the Corps' "Preferred Alternative". The Corps should not select its "Preferred Alternative" until these analyses and briefings have been completed and the states have been allowed time for meaningful input. Finally, we urge you to form an inter-agency group, including the Secretaries of Transportation and Agriculture, to review the implications of these proposals prior to implementation.

Respectfully,

Paul E. Patton
Governor of Kentucky

Don Sundquist
Governor of Tennessee

M.J. "Mike" Foster, Jr.
Governor of Louisiana

Ronnie Musgrove
Governor of Mississippi

The President
Page 3
March 22, 2001

George H. Ryan
Governor of Illinois

Bob Holden
Governor of Missouri

Mike Huckabee
Governor of Arkansas

Scott McCallum
Governor of Wisconsin

Jesse Ventura
Governor of Minnesota

cc: The Vice President
The Honorable Donald H. Rumsfeld, Secretary of Defense
The Honorable Gale Norton, Secretary of the Interior
The Honorable Ann Veneman, Secretary of Agriculture
The Honorable Norman Mineta, Secretary of Transportation

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Stephen G. Schneider

Missouri River Flow Management Resolution

Sponsored by Governor Bob Holden of Missouri
Approved February 27, 2001
Southern Governors' Association Winter Meeting
Washington, DC

Whereas, the flow of commerce on the Mississippi River is essential to the economic welfare of the nation; and

Whereas, the United States Department of Agriculture reports that 70 percent of the nation's total grain exports were handled through Mississippi River port elevators; and

Whereas, more than one half of the nation's total grain exports move down the Mississippi River to Gulf ports; and

Whereas, free movement of water-borne commerce on the Inland Waterway System is critical to the delivery of goods to deep-water ports for international trade; and

Whereas, the reliability of adequate flows for navigation is a key requirement for fulfillment of delivery contracts, employment in ports and terminals, and energy efficiency; and

Whereas, delays and stoppages would threaten the successful implementation of international trade agreements under NAFTA and GATT; and

Whereas, the Missouri River contributes up to 65 percent of the Mississippi River flow at St. Louis during low water conditions; and

Whereas, reduction of Missouri River flows above St. Louis would result in more frequent and more costly impediments to the flow of commerce on the Mississippi River; and

Whereas, the reach of the Mississippi River between the mouth of the Missouri River at St. Louis and the mouth of the Ohio River at Cairo, Illinois is at highest risk for delays and stoppages of navigation because of low-water conditions; and

Whereas, the Northwestern Division of the U.S. Army Corps of Engineers (USACE) is considering several proposed alterations to the current edition of the Master Water Control Manual for the Missouri River that would reduce support of water-borne commerce by restricting the flow of the river during the summer and fall, low-water period at St. Louis; now, therefore, be it

Resolved, That the Southern Governors' Association would strongly oppose any alterations that would have such an effect and would urge the Corps to consult with affected inland waterway states prior to endorsing any proposal that would alter the current edition of the manual.

HALL OF THE STATES 444 NORTH CAPITOL STREET, NW SUITE 200 WASHINGTON, DC 20001
202/624-5897 FAX 202/624-7797 WWW.SOUTHERNGOVERNORS.ORG

Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, Puerto Rico, South Carolina, Tennessee, Texas, U.S. Virgin Islands, Virginia, West Virginia

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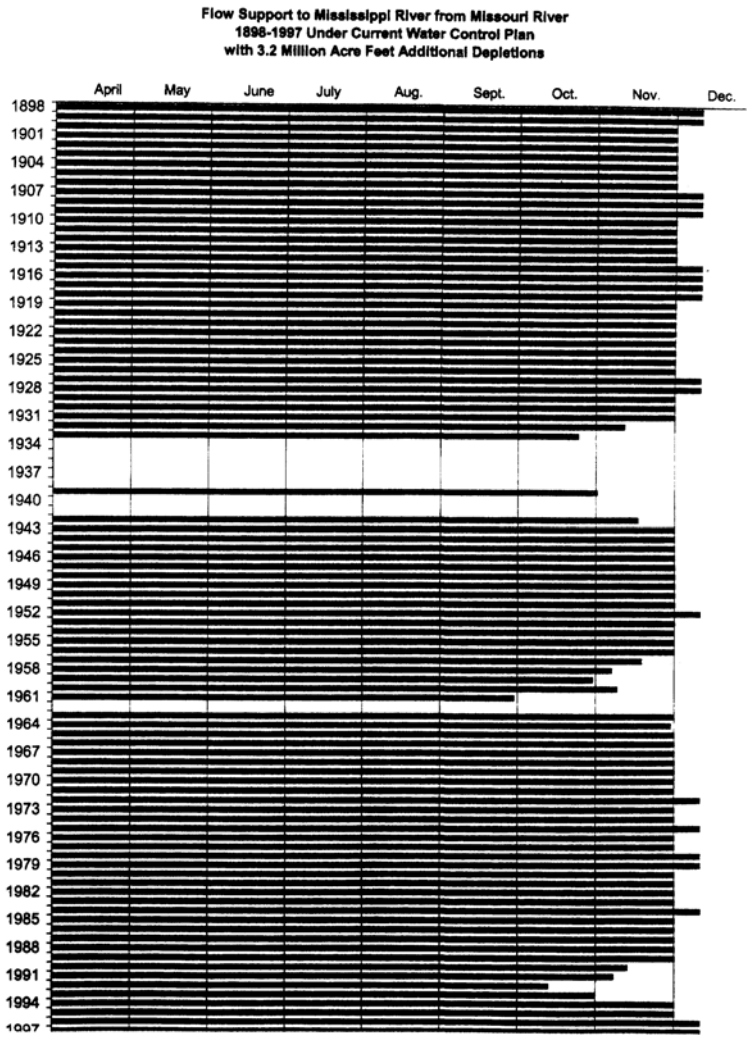
Flow Support to Mississippi River from Missouri River
1898-1997 Under Current Water Control Plan
with 3.2 Million Acre Feet Additional Depletions
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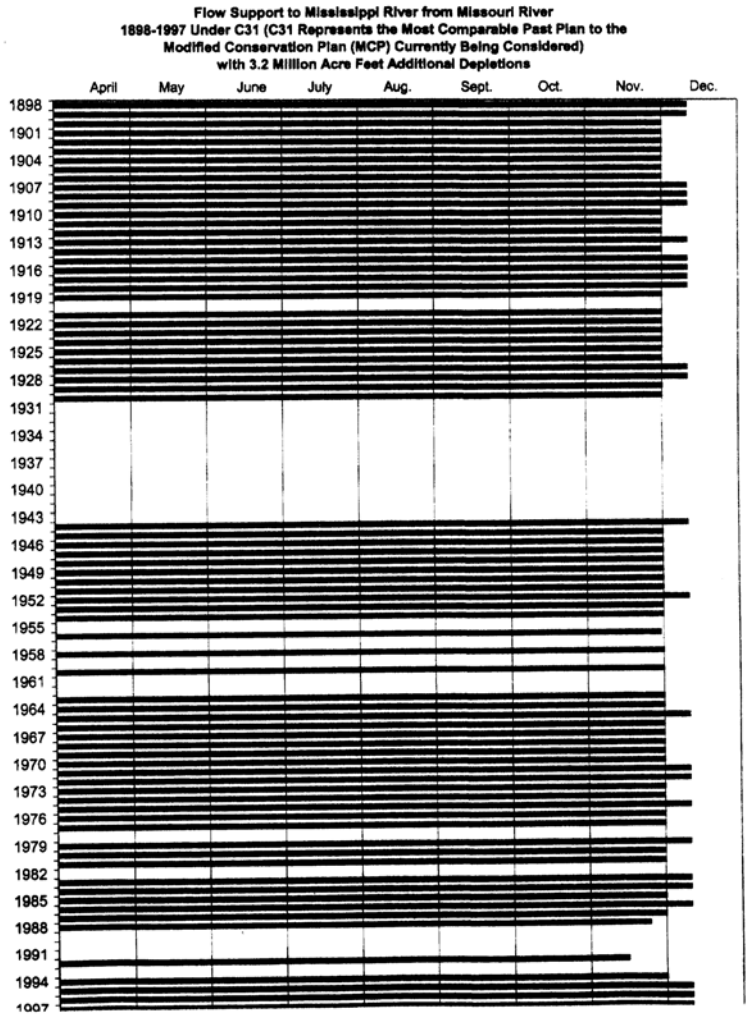
Flow Support to Mississippi River from Missouri River
1898-1997 Under C31 (C31 Represents the Most Comparable Past Plan to the
Modified Conservation Plan (MCP) Currently Being Considered)
with 3.2 Million Acre Feet Additional Depletions
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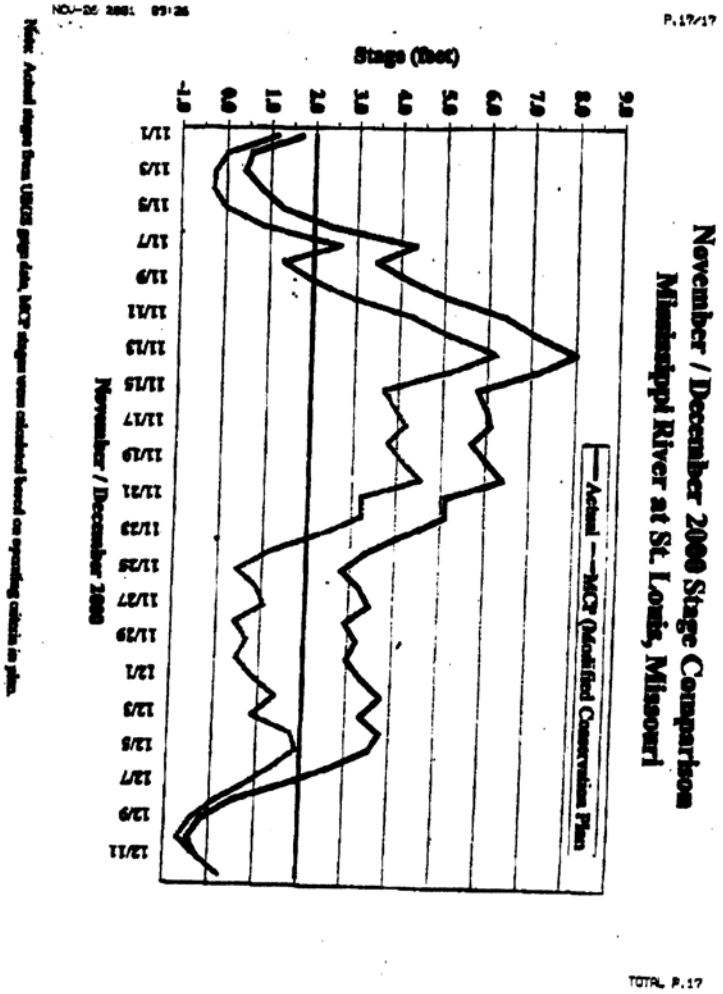

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Note: Actual stages from USGS gage data, MCP stages were calculated based on operating criteria in plan.

TOTAL P.17

MISSOURI RIVER CLAIMS
(A PARTIAL LISTING)

DRAFT SUMMARY OF INDIAN WATER RIGHTS AS ENUNCIATED BY
THE MNI SOSE INTERTRIBAL WATER RIGHTS COALITION, INC.

RESERVATION	ANNUAL DIVERSION (Acre Feet)	ANNUAL DEPLETION (Acre Feet)
Blackfeet	878,000	323,000
Fort Belknap	211,000	87,000
Crow	2,114,000	738,000
Sioux Tribes	16,686,000	8,638,000
Wind River	510,000	480,000
Northern Cheyenne	90,000	30,000
Fort Peck	1,000,000	630,000
TOTAL	21,489,000	10,926,000

"Thus Indian reserved water rights are property rights predicated on federal law and are not dependent on state substantive law. These rights are part and parcel of the prior appropriation system recognized in one form or another in all of the mainland western states. The Indian Tribes along the Missouri may well elect to utilize their *Winter's* doctrine rights to establish larger permanent pools in the mainstem or tributary reservoirs in support of recreation and fisheries development for the long-term economic stability of the tribal homelands. **The Indian Tribes along the Missouri may well elect to sell their water to industrial or municipal consumers, either within or without the basin.** The Corps avoidance of the probable development of Indian water is nearsighted and improperly creates an impression that the future will merely be a reflection of the *status quo*."

Richard Bad Moccasin, Executive Director
Mni Sose Intertribal Water Rights Coalition, Inc.

CAPE GIRARDEAU, MISSOURI TRANSCRIPT— JANUARY 21, 2002

PUBLIC HEARING CONCERNING THE
U.S. ARMY CORPS OF ENGINEERS
MISSOURI RIVER MASTER MANUAL

TRANSCRIPT OF HEARING

The following is a transcript of the public hearing held before the Brigadier General David A. Fastabend of the U.S. Army Corps of Engineers concerning the Missouri River Master Manual held at the Show Me Center, Southeast Missouri State University, 1333 North Sprigg Street, Cape Girardeau, Missouri 63701-6999 on January 21, 2002, as taken before Debra S. Kaesberg, Registered Professional Reporter, Certified Shorthand Reporter, and a Notary Public in and for the City of St. Louis, Missouri. Said hearing beginning at 7:00 p.m.

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Columbia, Illinois 62236
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(* Denotes typed statement not attached.)

MODERATORS
Brigadier General David A. Fastabend - moderator
Lawrence Cieslik - timekeeper

(Opening remarks by BG. Gen. Fastabend.)

SENATOR BOND: Thank you very much, General Fastabend. I am Christopher S. Bond, the United States Senator for the State of Missouri speaking on behalf of the citizens of the State of Missouri. General Fastabend, first, a hardy congratulations and -- on your recent promotion to general. It's a high honor within an institution that Americans are holding it high and well-deserved honor.

I thank you for holding this initial hearing and welcome you here today. And I'm so pleased to see so many water users and representatives of the governor and other officials to demonstrate our downstream unity. By scheduling four hearings on the Mississippi you have recognized what the Fish and Wildlife Service and National Academy of Science and panel of others do not understand.

And that is that somewhere in the vicinity of St. Louis the Missouri actually connects to the Mississippi. And you can't experiment on the Missouri without experimenting on the Mississippi. The environmental panel's desire to experiment on the river is a subject to which I will return in a moment.

Miss 25

I draw your attention to the fact that President Bush recently visited the Midwest and traveled south to New Orleans to discuss our economy, energy, and foreign trade. He spoke specifically about the $1.3 trillion food and fiber industry, which employs some 24 million people. I hope the President's employees will protect his priorities which are clearly our priorities, particularly in these difficult economic times.

Most of us understand that trading goods relies on efficient transportation. As much as two-thirds of the water on the Mississippi comes from the Missouri during the summer. You shut down the Missouri and you shut down the Mississippi. In summary, I believe the government should protect people from flooding, not cause floods. It should produce more efficient transportation options, not railroad monopolies. And it should encourage power production, not discourage it.

To jump ahead of myself and give you my conclusion in advance. My main point is that the Fish and Wildlife Service plan fails, because the plan's value to fish habitat is dubious, while its risk to people is very real. Let me elaborate. The environmental panel at the National Academy just

Miss 25

Other 7, 9 FC 2 Miss 4

EnSp 3

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1 released a one-dimensional report. It's obviously a
2 good-faith attempt to lay out their views to the
3 world.
4 However, it was disturbing to see them
5 wander away from this specific environmental task
6 into economic matters about which they proved to
7 know very little. None of the panelists are
8 indicated as transportation experts, nor as
9 economists. Like some others, they operated on
10 Soviet era assumption that monopolies are efficient
11 providers of service. Without water there are no
12 boats, and there is no longer competition for the
13 rails.
14 Imagine, if you will, railroads not raising
15 their rates without water competition. The Corps
16 has studies saying that just the opposite will
17 happen. You cannot blame the railroads for wanting
18 to make money, just as you cannot blame a compass
19 for wanting to point north. However, as a matter of
20 policy we should be encouraging competition, not
21 monopolies.
22 Nevertheless, what the Academy is supposed
23 to know much about is river biology. And what these
24 experts on river biology concluded is that, quote,
25 The most significant scientific unknowns on the

Page 7

1 Missouri River ecosystem are how the ecosystem will
2 respond to management actions designed to improve
3 ecologic conditions. They admitted that, quote, The
4 committee is keenly aware to the practice of
5 Adaptive Management is a work in progress, and that
6 there is inadequate experience with successful or
7 unsuccessful experiments to comprehensively evaluate
8 the underlying theory, close quotes.
9 They concluded that without more
10 information, quote, Truly comprehensive assessments
11 of the ecological state of the Missouri River are
12 not possible, close quotes, and that, quote, The
13 Endangered Species Act in itself is not likely to
14 provide a significant basis for marked recovery of
15 the Missouri River ecosystem improvements, close
16 quotes.
17 And we were shocked to learn that they
18 reinforced the fear felt by downstream citizens and
19 to highlight the un-tested guess-work involved in
20 species recovery, the National Academy report
21 mentions the word "experiment" exactly 40 times in
22 their report. Now, General, medical doctors are
23 neighborly enough to experiment on laboratory rats,
24 not U.S. citizens who live along rivers.
25 The Academy often referred to "carefully

Page 8

1 monitored experiments" and noted that Adaptive
2 Management should not be seen as fixed policy, but
3 rather as experimental that could be scaled back if
4 results are disappointing or enhanced if results are
5 promising.
6 Clearly what the biologists want to
7 experiment with is flooding. Page 108 they say
8 that, quote, Efforts to restore natural physical
9 processes and ecosystems may require occasional high
10 flows from mainstream reservoirs that increase
11 flooding and interfere with agricultural drainage,
12 close quotes. They want a more natural flow, but
13 natural flow is flooding.
14 They acknowledged in their graph on page 52
15 that downstream we already have a natural flow.
16 Folks in Missouri know that that natural flow means
17 flooding. It's very difficult for people in Herman,
18 Missouri to understand why flooding is needed when
19 it is what they already have, and why, if flooding
20 is the solution, it hasn't already worked. The
21 spring rise we already have is dangerous, and it
22 floods rural and urban communities without any
23 warning.
24 When it rains in the spring, unregulated
25 tributary flows swell the river from normal to flood

Page 9

1 stage in hours, as it did in early June of this past
2 year. And this is the monster the Fish and Wildlife
3 Service wants us to experiment with, by adding what
4 they call no more than three feet of water in the
5 spring. That no more than three feet is a serious
6 flood.
7 One final problem with reconciling the Fish
8 and Wildlife plan with the Academy and with reality
9 is the flows the Service recommends are not natural.
10 Because they propose artificial low flows in summer
11 when preregulation high water peaks occurs as a
12 result of upstream snow melt during the summer.
13 There are two other suggestions which are
14 important. One, they recommended that the Corps
15 could not and should not make decisions that ignores
16 flood damage reduction responsibilities. To that I
17 say bravo. The other recommendation is that, quote,
18 A moratorium on current efforts to revise the Master
19 Manual should be enacted, close quotes.
20 It's clear that we've been correct all along
21 in suggesting that the dangerous so-called solution
22 demanded by the Fish and Wildlife Service is
23 untested. It is well-intentioned theory that it's
24 value to the aquatic ecosystem is untested and that
25 its risk to people is self-evident.

Nav 8

Other 14
EnSp 4

FC 8

Hydro
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Other
7, 46

3 (Pages 6 to 9)

Page 10

1 . According to the nonpolitical, nonregulatory
2 scientists at the Department of Interiors, the
3 United States Geological Survey, quote, Currently
4 decisions regarding water and floodplain management
5 on the Missouri River must be made without the
6 benefit of long-term, in-depth scientific
7 information to document changing conditions on the
8 river, close quotes.
9 This week I'm told that the South Dakota
10 House of Representatives passed a resolution, 59 to
11 9, objecting to the extreme high flows promise.
12 Seven years ago the Corps' spring rise plan was
13 condemned from Omaha to New Orleans by the public.
14 Now we can add South Dakota. Everyone should be
15 reminded that it was the Clinton administration in
16 1994 who proposed it only to reject it subsequently.
17 Their Secretary of Agriculture and Secretary
18 of Transportation vigorously opposed the Corps' plan
19 in 1995, representing the views of cabinet-level
20 officials. Our government and our other Mississippi
21 River governors wrote to the President early this
22 year to communicate their opposition to this plan
23 because of the impacts it will have on the
24 Mississippi River. While I would not be surprised
25 to see our competitors in Brazil propose eliminating

Page 11

1 U.S. water transportation, it is not something one
2 would expect from our own government.
3 Our vacation from history where we can
4 afford to throw people out of work is over.
5 Government should be proposing massive
6 transportation, modernization, and economic
7 development, not economic surrender and
8 transportation decay. It is inexcusable that we
9 would hear our government propose bankruptcy for an
10 industry at any time, particularly during a
11 recession.
12 General Fastabend, you and this
13 administration did not start this mess, but you are
14 left to clean it up. The Corps has bill language
15 approved by Congress in the Energy and Water
16 Appropriations Act for 2002 and signed by the
17 President, which states clearly that the Secretary
18 of the Army, quote, May consider and propose
19 alternatives for achieving species recovery other
20 than the alternatives specifically prescribed by the
21 United States Fish and Wildlife Service, close
22 quotes.
23 It says further that, quote, The secretary
24 shall consider the views of other federal agencies,
25 nonfederal agencies, and individuals, to insure that

Page 12

1 other congressionally-authorized purposes are
2 maintained, close quotes. This language means two
3 things. It means the Fish and Wildlife Service does
4 not have a monopoly on or control over the final
5 process, and, two, it maintains -- requires that the
6 Army maintain flood control and navigation. I know
7 that's what it means because I wrote it.
8 And I negotiated it on a bi-partisan basis
9 in the United States Senate, and it was
10 overwhelmingly adopted. It is clear that there is
11 insufficient scientific, economic, or political
12 foundation that these proposals can rest on. It's
13 clear that using the Endangered Species Act to
14 impose unworkable management options on people was a
15 poor strategy.
16 I believe that the agencies must clear the
17 deck, acknowledge the shortcomings of the Biological
18 Opinion, and get back together and identify the
19 areas of agreement on habitat restoration and push
20 forward with those immediately.
21 In the end I believe that process can and
22 will produce positive results, and insure
23 initiatives which will help fix. I believe in doing
24 so, without selecting an alternative that injures
25 people and property, we will be carrying out our

Page 13

1 highest duty.
2 And as I have indicated to you, and to my
3 colleagues who have other views, I am ready to work,
4 as I know our State of Missouri is, with all
5 interested parties to help develop a replacement
6 plan that would achieve the Congressionally-mandated
7 objectives and perhaps even recover endangered
8 species. The current plan is dubious for fish, but
9 it is very harmful to people.
10 I appreciate so much the opportunity to
11 address you, and I thank you again for your
12 graciousness in holding this hearing.
13 (Typed speech attached hereto.)
14 BRIG. GENERAL FASTABEND: Thank you,
15 Senator Bond.
16 SENATOR BOND: Thank you.
17 (Applause.)
18 BRIG. GENERAL FASTABEND: Okay. At this
19 time we're going to show the -- the introductory
20 video. While they're setting that up, I should
21 mention that I've got a very distant link to Cape
22 Girardeau. When my German ancestors came to
23 Missouri in 1868 there were two brothers. One went
24 to Shell in southwest Missouri; the other one to
25 Cape Girardeau. I don't know what happened to the

Other
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Other
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Other
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Other
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EnSp 8

Other 2
EnSp 8

4 (Pages 10 to 13)

Page 14

one that went to Cape Girardeau. If you got him I would like to hear about it. We lost that family history all together.

(Video playing.)

BRIG. GENERAL FASTABEND: Okay. Now, we'll get to the comment part.

(Video playing.)

BRIG. GENERAL FASTABEND: After 9/11 the City of New York called me and asked me if they could -- if they had civil disturbances, if they could use the Master Manual video for crowd control.

(Laughter.)

I told them I didn't know if it was appropriate under the Geneva Convention. But it is useful for everyone to get a common basis of understanding of what controls are north. You've heard it before, and I know I see many familiar faces out there.

We'll go ahead and start with the comments, and we'll first call Ms. D.K. Hirner. Dee is the Deputy Chief of Staff for Governor Bob Holden.

MS. HIRNER: Thank you, General. Thank you for allowing me to present Governor Holden's remarks regarding the future management of the Missouri and the Mississippi Rivers. The Governor

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regrets that he is unable to attend this evening. Unfortunately his schedule was necessarily changed to allow him to attend memorial services for Officer Kelly Poynter, a highway patrolman who was killed in the line of duty last Friday morning.

The Governor believes these hearings are crucial to insure that the views of all our citizens are taken into account as the Corps proposes changes with the potential for profound effects on the future, not only of Missouri, but of this nation. While the Governor spoke at length on his concerns at the court hearing in Jefferson City last November, I will take this opportunity to reiterate the main points he made at that time.

First, Missouri strongly opposes any plan that reduces the amount of usable water to downstream states. Second, Missouri rejects any proposal for enhanced spring releases that would have adverse effects on farmers. Third, Missouri firmly opposes any changes that jeopardize the long-term viability of navigation on the Missouri River. And fourth, Missouri believes that restoration of the environmental health of the river should be a priority.

But there are more reasonable methods for

Page 16

achieving this goal than those that are proposed in the Revised Draft Environmental Impact Statement. The decisions made at the end of this process will affect citizens who depend upon the Missouri River for recreation, navigation, agriculture, hydropower, water supply, and fish and wildlife conservation for many years to come. Thus, the Corps is bound to consider every impact of the plans being considered for the river's future management.

This has yet to take place, particularly with regard to absolutely critical areas. First, we must reiterate our concern regarding the reduction of downstream flow. All five of the new plans proposed in the Revised Draft Environmental Impact Statement shift water to the upper basin reservoirs by promoting substantial cutbacks in reservoir releases with potentially alarming frequency.

The resulting decrease in the amount of water available threatens the viability of designated downstream uses, such as navigation. Further, after repeated assurances that the impacts of the proposed Missouri River management alternatives on the Mississippi River would be thoroughly examined, the process is not under way. We would strongly encourage the Corps to complete

Page 17

its examination.

To exemplify our concern, we would note that had the modified conservation plan outlined in the Revised Draft Environmental Impact Statement been in place during the past two years, there is a very high probability that the U.S. Coast Guard would have imposed low-water restrictions on the Mississippi River during both of those years.

This clearly demonstrates the potential for extremely negative consequences not only on our state, but on that sizable portion of the Midwestern economy that depends on the Mississippi River. Second, we are concerned that the Corps has not initiated its studies of the impact of future depletion on both the Mississippi and the Missouri Rivers under each of the new alternatives under consideration.

Last year the governors of Arkansas, Illinois, Kentucky, Louisiana, Minnesota, Mississippi, Tennessee, and Wisconsin joined Governor Holden in sending a letter to President Bush requesting the depletion analysis. And this past fall the Deputy Assistant Secretary Domonic Izzo responded to the request, stating that the depletion analysis would take place. We would

Hydro 37

Miss 4, 24, 29 Nav 12 Hydro 28

Other 9 Miss 5

5 (Pages 14 to 17)

Page 18

encourage the Corps to act on Secretary Izzo's commitment.

Our preliminary analysis shows depletions may well affect the Corps' ability to insure that the river remains, as we propose, a river of many uses, if any of the five new alternatives are chosen. Given increased demands for water within the basin, the controversial nature of the Master Manual process, the fact that the current water control plan has been in effect for four decades, and the likelihood that any new plan will remain in effect for at least the next 40 or 50 years, it is absolutely essential that the Corps thoroughly analyze depletions for the foreseeable future.

Failure to do so would not well serve people of Missouri and the Midwest whose lives and livelihood depend on the continued availability of sufficient flow in the Missouri and Mississippi Rivers.

Governor Holden encourages the Corps to implement the National Academy of Sciences' recommendations to reflect the consensus of citizens living in the Missouri River basin. He challenges the Corps to work to insure the river is managed to benefit all residents of the basins, and to achieve

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balance among the upstream, downstream, and competing uses of the river which are founded on valid scientific studies.

Missouri is committed to improving the environmental health of the Missouri River, but also to ensuring the economic security of its citizens. Senator -- I mean Governor Holden strongly encourages the northwest division implementing habitat restoration projects similar to those undertook by the Corps St. Louis district along the Mississippi River which have been tremendously effective.

The Corps has been charged with developing a plan that has great potential to impact how we live, work, and play. Only through a thorough and open discussion can it achieve the goal of establishing the Missouri as a river of many uses.

On behalf of Governor Holden, thank you for your time, and thank you for the opportunity to make these comments.

(Typed speech attached hereto.)

BG. GENERAL FASTABEND: Thank you, Ms. Hirner. Mr. Lloyd Smith, Chief of Staff, Congresswoman Emerson's office.

MR. SMITH: Thank you, General, welcome

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to our congressional district. Jo Ann couldn't be here this evening. And I will abbreviate my remarks and make the entire written document available to you. Thank you for this opportunity to share these thoughts and observations. Before I begin I would like to thank Senator Kit Bond for his outstanding leadership on this issue.

On more than one occasion it's been Missouri's own Kit Bond who has been the only reason that man-made flooding has not increased and been implemented. Thank you, Senator Bond. The Corps is here basically because Senator Bond requested it.

Many times throughout this debate the focus has been on the communities located along the Missouri River and to their interest. And it seems like those along the Mississippi River have often taken a back seat. Many of those folks are here this evening. They know the potential adverse impacts that flooding can have, and they also know the benefits of navigation on the Mississippi River.

I am here to take this opportunity to voice my opposition to the plans that have been proposed. In an attempt to restore the natural flow of the Missouri River, this plan would create increased flows of the river in the spring and decrease flows

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in the summer. The purported reason behind these proposed changes is for the preservation of several endangered and threatened species. Many of those who have been actively involved in this process are at odds to whether this plan will actually help those species.

However, while the issue of endangered species preservation has been at the heart of this issue, there's several other factors that need to be considered. Oftentimes this focus is considered South Dakota to St. Louis, but there are more things to consider than just that. This plan will go further than that by creating problems for those interests on the Mississippi River.

The Missouri River does not flow directly into the Eighth District of Missouri, but we are still very reliant on the river. It feeds the Mississippi River and provides as much as two-thirds of its flow during dry seasons. The proposed artificial spring rise would have devastating consequences on those who rely on the Missouri River for their livelihood.

Estimates show that shifting of the traffic from barges would have an increased cost in fuel, increased emissions, and probable increase in

Other 8, 9, 14

WRH 48

Other 7

Miss 1

EnSp 8

Miss 4 Nav 23

6 (Pages 18 to 21)

Other 7

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accidents. These statistics perfectly illustrate the point that barge transportation is, hands down, the most efficient and environmentally friendly and safest means of transporting products.

I'm going skip down to the end of her statement. Many people have made the mistake of assuming that the two sides of this issue are pro-environment and anti-environment; that's simply not the case. I want to make it abundantly clear that I am not discounting the importance of preserving endangered species, and not saying that we cannot make any changes to the flow of the river at all. However this plan in particular focuses on endangered species preservation, and completely ignores the concerns of those of us who live on the lower Mississippi River.

We need to find a balanced plan that serves the needs of all the environmental, recreational, and economic interest. And I would like to close with this statement. At the end of the day we must not forget the devastation that past floods have caused on people, wildlife, homes, businesses, and infrastructure. Entire towns and livelihoods depend upon the Missouri River. Any change, and she repeats, any change, must realize the impact of

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people first and foremost, who live, work, and recreate along the banks of the river. All other considerations must be secondary.

Thank you.

BG. GENERAL FASTABEND: Thank you, Mr. Smith. Next is Senator David Klindt from the Missouri Senate.

MR. KLINDT: Thank you. My name is David Klindt, and I represent the -- a district in northwest Missouri. General, it's an honor to be here tonight to represent the constituents of my senatorial district. The 12th Senate District is comprised of 16 mostly rural counties in the far northwest corner of the state. And among those 16 counties are Atchison, Holt, and Carroll Counties which border the Missouri River.

And I'm also here tonight for Senator Peter Kinder. Senator Kinder couldn't be here tonight. His duties as President of Missouri Senate kept him away, and he does represent this area. And he wanted me to be sure to state that a lot of the things that I would be talking about are some of the things that he believes also.

As you might imagine, the rural makeup of the area I represent relies heavily on the

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agricultural economy to sustain our economic viability. As a farmer myself, I understand firsthand just how damaging the proposals being discussed for changing the management of the Missouri River would be for our state's economy. My constituents and Senator Kinder's constituents are concerned about several specific components of the proposals being promoted by the U.S. Fish and Wildlife Service, and under consideration by the Corps of Engineers.

We in Missouri are opposed to the higher reservoir levels being proposed for the upper basin lakes. Reducing the amount of water provided to the lower basin states like Missouri will have a dramatic negative impact on irrigation, navigation, drinking water systems, and electric facility operations. We in Missouri are opposed to a spring rise that will inevitably result in more flooding, more interior drainage problems, and more risk for those who live and work some of the best farm ground our state has to offer.

These higher rivers' levels will increase the risk of life and limb and increase the risk of millions of dollars in additional flood damage. We in Missouri are opposed to proposals that would

WS 11 Nav 30 MoPower 1 FC 8 IntD 8 GW 7 Miss 4

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reduce the summer river flows creating, in effect, a split navigation season. This aspect of the proposal would strike a death blow to the river navigation on the Missouri and the Mississippi Rivers, and throw our state's already troubled transportation system further out of balance.

While some unreasonable environmentalists may argue that ending navigation on the Missouri River is an appropriate environmental policy, I would argue that the opposite is true. Taking away the environmentally friendly and efficient waterborne system of shipping our products to market would put hundreds, if not thousands, of additional trucks on our state's crumbling highways, and likewise many more rail cars on our overburdened rail system.

We should be talking about making every effort to improve our navigation system so that the burden of other forms of transportation is lessened, and not increased. One new wrinkle among the Corps' current proposals for changing the operating plan for the rivers is the idea of Adaptive Management. In effect this new policy would give federal biologists, in conjunction with the Corps, the ability to change any operating procedure that they

7 (Pages 22 to 25)

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deem necessary. We in Missouri oppose this idea as well.

As a farmer who has relied upon the land to earn a living, I am committed to maintaining a healthy environment and conserving the natural resources that surround us. I am supportive of efforts to restore native habitats for species in need of assistance. I myself on one of my farms have an endangered species, the Topeka shiner. So I am well aware of these things. But there has to be some common sense in place when making decisions that place men, women, and children and their livelihoods in jeopardy.

Let's use this occasion to remember that there is one overriding mission and purpose set forth by President Thomas Jefferson for Captain Meriwether Lewis in the Corps of Discovery. President Jefferson's primary concern was the discovery of whether there existed an all-water route from the Mississippi River to the Pacific Ocean for the future development of commerce and trade in America's new territory to the west.

Well, ladies and gentlemen, I'm here to report that nearly 200 years later, while an all-water route may not exist all the way to the

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Pacific Ocean, we have enjoyed the use of a viable all-water route from the Gulf of Mexico all the way to ports in the states of Nebraska and Iowa for decades.

Other 7

To implement any of the proposals which would do away with this vital national resource would fly in the face of longstanding United States policy in place since President Thomas Jefferson's orders delivered to Captain Meriwether Lewis nearly two centuries ago. I implore the U.S. Army Corps of Engineers to let history be their guide as they decide whether President Jefferson's priorities are still worth following today.

Thank you very much.

(Typed speech attached hereto.)

BG. GENERAL FASTABEND: Thank you, Senator Klindt. I apologize for mispronouncing your name. And I apologize in advance to all others I will do that to today. Mr. Charles E. Kruse.

MR. KRUSE: Good everyone, General Fastabend. My name is Charles Kruse. I own and operate a family farm in Stoddard County, which is about an hour southwest of Cape Girardeau where we are tonight. I also am proud to serve as president of Missouri Farm Bureau, the state's largest general

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farm organization. First, as a fellow general officer, I wanted to congratulate you on your recent promotion to brigadier general. That is indeed quite an accomplishment, and I congratulate you.

Secondly, I want to recognize the leadership of our senior United States Senator Kit Bond. Management of the Missouri River has been an issue since his very first days in the senate. He has led our state's efforts, and we can't thank him enough for his dedication and perseverance. By now you know what all of us in Missouri have known for a long time; Kit Bond is a fighter and he simply won't give up. We're truly fortunate to have him on our side.

It should also be noted that Congresswoman Jo Ann Emerson has also been a vocal opponent to the management changes, and we appreciate Jo Ann's efforts in this regard as well. For the record, both Missouri Farm Bureau and our national organization the American Farm Bureau strongly oppose the flow changes now being considered. While we remain hopeful that a balance can be achieved, with the exception of the current plan, none of the current options are acceptable.

Like the movie Ground Hog Day, flow change

Other 7, 165, 271

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proposals never seem to change. In fact, I gave the following remarks at a public hearing on the Corps' preferred alternative back in October of 1994, and I quote: To farmers, the detrimental impacts of the plan appear obvious and very immediate. While some of the stated environmental goals and objectives appear far more vague and harder to verify, we fear that plans such as the Corps' preferred alternative fail to adequately consider the human population, and only serve to further undermine public support for reasonable efforts to protect fish and wildlife, end quote.

Today, seven years later, we find ourselves facing the same alternatives and our position has not changed. Unfortunately, what started out as a debate about drought management has evolved into a referendum on the Endangered Species Act. An attempt to expand significantly the Missouri River's mitigation program and an all-out assault on river commerce. The U.S. Fish and Wildlife Service cites the Endangered Species Act as the reason for their original position. According to them there is but one very prescriptive way to avoid a jeopardy position. From where we sit that is very hard to believe.

8 (Pages 26 to 29)

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Miss 4

1 We appreciate the opportunity to speak this
2 evening on the ways of management changes on the
3 Missouri River could also adversely impact the
4 Mississippi River. General, you have heard, and you
5 will hear, many important facts about the
6 relationship between the two rivers. There are two
7 points that I hope will become very evident. First,
8 during drought conditions Missouri River flows are
9 extremely important to Mississippi River commerce.
10 And second, we should recognize that if the
11 U.S. Fish and Wildlife Service is successful in
12 dictating flows on the Missouri River, the
13 Mississippi might very well be next. The birds and
14 fish may be different, but the issues will be the
15 same. We have members that farm in every county
16 that boarder the Missouri and Mississippi Rivers in
17 our state. Many of them are here tonight. They
18 continue to struggle with extremely low commodity
19 prices and rising input cost. In fact, the federal
20 government has had to step in for four consecutive
21 years with emergency economic assistance.
22 The current administration has indicated
23 that we must be more involved in global markets. In
24 other words, we need to be more competitive. If
25 that's the case, shouldn't we be doing everything

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Miss 34

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1 possible to enhance river commerce, not only on the
2 Missouri, but other rivers such as the Mississippi?
3 Shouldn't we be making every effort to decrease the
4 risk of flooding in the fertile bottoms?
5 Our farmers already know the impact of
6 higher flows in the spring. The fact is, we already
7 have a spring rise and don't need to be part of a
8 contemporary science experiment, or the ten-year
9 pilot program being proposed by the Missouri River
10 Basin Association. It makes no sense to force
11 farmers in rural communities to participate in a
12 risky scheme that may or may not increase
13 populations of three species.
14 In closing, we are not opposed to any
15 change. We believe there are alternatives that
16 could enhance aquatic habitat without major system
17 modifications, without massive new land acquisition
18 programs, without significant increases in energy
19 costs, without controlled flooding, and without
20 jeopardizing river commerce. For these reasons we
21 have no choice but to strongly oppose the
22 alternatives currently under consideration.
23 Thank you very much.
24 (Typed speech attached hereto.)
25 BG. GENERAL FASTABEND: Thank you, sir.

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1 Mr. Randy Asbury.
2 MR. ASBURY: Good evening, General. My
3 name is Randy Asbury, and I'm executive director of
4 the Coalition to Protect the Missouri River. This
5 coalition represents a diverse group of 30
6 agricultural, navigational, utility, industrial, and
7 business-related entities, all of which are, or
8 represent Missouri River stakeholders. We support
9 responsible management of the Missouri River
10 resources and the maintenance of congressionally
11 authorized purposes of the river, including flood
12 control and navigation.
13 We also support habitat restoration for
14 endangered or threatened species. Flood plain
15 farmers, though some of the most productive land in
16 the world, they also face natural risk of flooding
17 and inland drainage problems. Too much moisture is
18 as detrimental for crop production as too little
19 moisture. For this reason we are greatly concerned
20 with the spring rise alternatives. Man-made river
21 flows that increase the risk of flooding or inland
22 drainage problems along the Missouri or its
23 tributaries are unacceptable.
24 In today's difficult agricultural economy
25 farmers can't withstand man-made events that

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1 compound the natural risk inherently a part of
2 farming. The latitude given the Corps by the
3 Adaptive Management feature creates the realization
4 that lower basin states must prepare for the
5 eventuality of the highest spring rise, 20,000 cubic
6 feet, released from Gavins Point. This increased
7 flow is recommended to scour vegetation from
8 sandbars to increase nesting habitats for terns and
9 plovers, and as a spawning cue for the pallid
10 sturgeon.
11 Corps analysis shows that net habitat gain
12 of 37.4 acres below Gavins Point will occur by
13 increasing river flows to 20,000 cubic feet over the
14 current water control plan releases, and reducing
15 summer flows to 21,000. The Missouri River water
16 shed drains 1/6th of the United States over an
17 eight-acre -- eight-state area, and the river itself
18 is 2341 miles long. Yet the net result of an
19 additional 37 acres of sand bar is ridiculous.
20 The Gavins Point 1528 flow currently being
21 tossed around by MRBA is not feasible for
22 navigation, because channel changes resulting from
23 the '93 flood have altered them to the detriment of
24 navigation effectiveness. What were once minimum
25 service levels before '93, are no longer minimum

Nav 5

9 (Pages 30 to 33)

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1 service levels today. Approximately 100 dikes
2 destroyed by the '93 flood have never been repaired.
3 This eliminates GP1528 as a viable flow option since
4 flows at or below minimum navigation levels are not
5 economically justifiable.
6 Gavins Point flows below minimum navigation
7 will cause navigation to cease all together on the
8 Missouri River. It must be understood that
9 navigators can't withstand a reduction of 72 days or
10 30 percent of their operating season year after year
11 and be expected to remain economically viable. No
12 one would expect any business to reduce their season
13 by 30 percent and continue operations in a practical
14 way. This would be like asking Wal-Mart to shut
15 down from September 14th to December 31st.
16 Summer flows reduced to below minimum
17 navigation levels on the Missouri River will also
18 negatively impact the flow support to the
19 Mississippi River. The MCP alternative decreases
20 flow support to the Mississippi 40 out of 100 years.
21 Missouri DNR analysis indicates that 75 percent of
22 the time, or 30 out of 40 years, these cutbacks and
23 flows coincide with low water on the Mississippi.
24 The current water control plan decreases flow
25 support 9 percent of the time, and coincides with

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1 flow water on the Mississippi about 78 percent of
2 the time.
3 Flow reliability contributed to the
4 Mississippi by the Missouri is undoubtedly greater
5 with the current water control plan than with any
6 other. A GP20 option would also result in a
7 Mississippi River rise at Cape Girardeau of
8 approximately one foot when the river is near flood
9 stage. The National Academy of Science report
10 confirms the concerns that I and other groups have
11 conveyed tonight and during the past four and a half
12 months.
13 They recognize that a relocation of people
14 and businesses along the floodplain will have a
15 monetary and psychological cost. Additionally,
16 agriculture flooding and inland drainage problems
17 will occur to reconnect the river to the floodplain.
18 And although they've stated they have not called for
19 the demise of navigation, most everything they've
20 called for would bring the flow reliability needed
21 for river commerce to an end.
22 Insomuch as this would be the case, the
23 question now before us is, does society want the
24 Missouri River to be managed solely for conservation
25 purposes, or does it want to maintain all

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1 congressionally-authorized purposes? We contend
2 society wants a multi-use river. With that in mind
3 any decisions made on future management of the river
4 must take into account the cost to all interests, in
5 addition to the one-dimensional focus on
6 conservation that has defined this process to date.
7 I appreciate the opportunity to bring these
8 comments tonight, sir.
9 (Typed speech attached hereto.)
10 BG. GENERAL FASTABEND: Thank you,
11 Mr. Asbury. Mr. Robert Sorrells.
12 MR. SORRELLS: Thank you, General
13 Fastabend for this opportunity. I am vice-president
14 of the Missouri Soybean Association, and I could
15 make my comments representing them. I am also a
16 land manager and a farmer in the bootheel of
17 Missouri. I manage about 25,000 acres, so I could
18 make comments in that regard. But I think tonight I
19 would like to just talk as an American citizen more
20 importantly.
21 I once new a rich man. He didn't start life
22 that way. He grew up as the son of an immigrant
23 from Europe. He had no silver platter or large
24 inheritance. What he got he worked for. His dreams
25 were large, motivated by the desire to build the

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1 American dream. He married a good girl and started
2 a family. As time passed he built a very successful
3 business. Paying attention to detail and hard work
4 achieved the good life.
5 As his family grew he wanted to give his son
6 the things he was never afforded as a young boy, the
7 yearly vacations to the beach and trips snow skiing.
8 The son always got the presents that he desired on
9 his birthday and Christmas. Upon turning 16 there
10 was a new sports car in the driveway, and when
11 college came it was only the best schools. He
12 attempted to overlook the problems with speeding
13 tickets and underage possession of alcohol. His
14 grades became a problem that resulted in just
15 quitting college.
16 The vision that his father had was not the
17 same vision of the son. The son was not really into
18 work. But upon the insistence of his father, he
19 started working the family business. A few years
20 later the boy's father passed away, leaving a very
21 successful business to his son. The boy thought he
22 had it made. Enough money to build a large house
23 where he could hold lavish parties. Fast cars, cars
24 and girls too many to remember. Some days he
25 wouldn't even go to work.

10 (Pages 34 to 37)

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Lacking the focus and not paying attention to detail, soon the company lost customers and found itself in financial problems. The son decided to sell out to a competitor and take what money was left to play with. Soon the son found himself flat broke. He ended his life the way his grandfather had begun his when he first came to America, no money, no job, not even a family that would have afforded him a son.

What does this have to do with the river? I could of given a dissertation explaining the value or the lack of value of birds and mussels. I could of talked about DEIS as being flawed or inadequate, preferred alternative or not so preferred alternative. But this completely misses the bigger picture. In my opinion, the more important question: Have we lost our focus?

Other 7, 182

Our forefathers worked hard to build this nation. They had a vision of a better life, and instilled this in their children. But in the process we became wealthy. We succeeded in our endeavors. Life has become a little too good. As a result we are not investing in our infrastructure and building our nation.

Don't worry, there are other countries out

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there that hunger to succeed, and we are in competition with them. They want a better standard of living, we want recreation. We are remembered by what we do in life. Let us not be remembered as the ones that lost our vision. Our efforts should be focussed on newer ports, larger locks and dams, and stronger levies. We do live better than our fathers. Their hard work has made us the strongest and wealthiest nation on earth. Let us not lose our vision and focus and be remembered as the son that lost the business.

Thank you.

(Typed speech attached hereto.)

BG. GENERAL FASTABEND: Thank you, Mr. Sorrells. Mr. Alois Luhr.

MR. LUHR: General Fastabend, my name is Alois Luhr, chairman of Luhr Brothers, Incorporated, basically speaking for Luhr Brothers and the river industry. We have been in business for over 55 years as a river marine contractor and inland river tower, and performed channel maintenance and river construction on the inland rivers of the United States, including the Missouri and upper and lower Mississippi Rivers. We employ in excess of 500 full-time employees.

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Our river towing division owns and operates in excess of 30 tow boats in various size and horsepower, in excess of 300 cargo barges, towing product from our sister company's open-pit limestone quarries in Missouri by the inland river system to interstate points north and south. Our sister company Tower Rock Stone Company operates two limestone quarries and produces in excess of 8 million tons of product annually, all of which is transported by barge on the inland river system of the United States, including the Missouri and upper and lower Mississippi Rivers.

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Number 1, I am very concerned with the documentation presented to the public today for many reasons. First, we believe that the importance of navigation is minimized through the uses of a party that does not deliver to the public the importance of water-compelled rates to the economic structure. For example shippers in the basin save anywhere from $75 to $200 million because of competition between rail and water. Benefits that will be lost under the GP proposal. If recreation on the upper basin were valued in the same fashion as navigation on the lower part of the system, the benefits to the nation would be minimum.

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Nav 12 Miss 4, 20, 21, 30

Second, the documentation impacting the Missouri River that is presented to the public is incomplete and flawed. Assumptions made as to the ability of traffic volumes to stay on the river in face of rising costs and declining availability of water is in error, resulting in misleading and greatly undervalued impacts. In addition, the documentation that is presented fails to the follow the basic statistical practice of eliminating outlier years, that when excluded totally alter the results of the impact analysis as to contradict those presented. For example, if you subtract 1939 data from the calculations, the impact on the Mississippi River traffic can increase rather than decline.

Miss 4, 21

Third, the analysis evaluating increased dredging needs and the lower water reference point on which the structures in the middle Mississippi are based is a far more complex and critical issue that must be fully assessed and presented to the public prior to taking action. For example, the river training structures and the way we built the channel south of St. Louis expects that a certain amount of water will come from the Missouri River.

Less water and lower water years will cause

11 (Pages 38 to 41)

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navigation traffic impacts that are not sufficiently considered in the impact analysis. Tows will have to be shortened, the draft reduced, more than the analysis suggest. We know that 40 to 60 percent of the water that flows in the middle of the Mississippi during low water years comes from the Missouri River. Holding water back would further harm the reliability of the Mississippi River navigation which provides over 2 billion of benefits to the nation according to the Mississippi River Commission.

Nav 49 Other 3, 79

Fourth, the concern of opening a river for navigation support and Adaptive Management are contradictory unless certain parameters are placed on the process that assures a bottom-line support for navigation. Specifically, if Adaptive Management (reducing water or taking down levies) will cause the level of support for navigation to fluctuate annually, it will be impossible for shippers to develop long-term contracts for the movement of cargo, thus substantially adversely affecting the region's competitiveness.

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From our perspective, the National Academy of Science report confirms our greatest fear, that the U.S. Fish and Wildlife Service wishes to turn

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the Missouri River into a giant test tube. The difference between the NAS confirmation that certain features, (more natural flow, flood plain connectivity) are the best theory we have regarding restoring the ecosystem. And the U.S. Fish and Wildlife has said that the NAS admits that we really don't know for sure whether this experiment will work, and the people and economic activity will suffer.

We agree that it is time to put a moratorium on changes to the Master Manual. We also call on the U.S. Fish and Wildlife Service to withdraw the Biological Opinion in light of the NAS review, and present a more honest appraisal of what is known and unknown about the science of endangered species, rather than a single specific alternative that does not allow for the consideration of alternatives that do not adversely affect other uses. Congress never intended for fish to be more important than people's lives and livelihood.

Other 6

The flood control benefits of this system are critical to the region. Navigation benefits provide our nation with greater competitive advantages. The recreation benefits south of Gavins Point will also be adversely affected by the

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proposals other than the current water control manual. In fact, the more we review our alternatives, the more it is apparent that the current water control manual is a strong basis for continued multiple uses of river.

Thank you.

(Typed speech attached hereto.)

BG. GENERAL FASTABEND: Thank you, Mr. Luhr. Mr. Larry Dowdy.

MR. DOWDY: General Fastabend, I'm Larry Dowdy, executive vice-president of the Little River Drainage District, and I'm headquartered right here in Cape Girardeau, Missouri. The highest stage of record on the Cape Girardeau gauge occurred in 1993 during our summer months. And I make that statement only to show you how unpredictable floods are on this -- in this area. And had it not been for a low stage on the lower Mississippi we would of had much more flooding than what we had at that time.

I appeared before you in St. Louis on November 13th and presented oral testimony as well as a written statement. After that hearing my views and our district's views of any changes on the Missouri River Master Manual has not changed. If anything, after listening to approximately 50 other

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presenters at that hearing, we were more determined and more convinced that the plan which is currently being followed needs to be left alone and adhered to closely.

Even though there has been 14 other public hearings on this matter over the past few months, we are thankful that Senator Bond from the State of Missouri has been successful in getting this hearing in this part of our states. We applaud his efforts for continuing to fight the environmentalists who are trying to make changes for the benefit of two birds and a fish.

As I mentioned in my statement on November 13th, 2001, I wish a good friend of mine who is a retired river boat captain, namely Mr. Reese Sanders who lives here in Cape Girardeau, could have been persuaded to appear before this hearing and to make some of the statements that he has made to me. He's in attendance tonight, and I hope that some of you will get to know him. I've still not been able to persuade him to speak publicly. He said that was not his thing. I told him it isn't mine either, but my supervisors tell me to do it, so I do it.

Mr. Sanders was kind enough to share some things with me over the past two or three years

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since I've become acquainted with him, which is what I want to share with you tonight. He began working on the Mississippi River -- on the Missouri River, rather, in 1935 with a contractor named Woods Brothers. And he was involved in the construction of dikes on a project known as the Indian Cave job near Falls City, Nebraska at a cost of only $1 million.

He told me there was never a straightening of the Missouri River that has been charged, charged from time to time, but only a modification of some of the curves in the river, and making the curves more gentle and easier for the barges and tow boats to maneuver. He had been through almost all the locks in the upper Mississippi River which he -- which, as he stated, are some 60 to 70 years old, and which were designed for only 50 years of life. He stated these locks are too short, too old, and need to be modified. Of which if we started today would take more than 20 years to complete. He's optimistic in his years, I'm sure.

He told me that the Corps of Engineers began taking -- before the Corps of Engineers began taking control of the Missouri River and improving the river, it was filled with buoys in order for the tow

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boat captains to not run or tow it aground. Today he says because the work the Corps has done there is few buoys that need to be done.

Mr. Sanders is 88 years old and has a very good perception of what's taking place with the efforts of the so-called environmentalists who want to make changes. He said it is nothing more than a scheme to remove navigation on the Missouri River. And he is so right. He further stated that a true environmentalist would be in favor of any plan or any project that promotes cleaner air, safer travel, more efficient transportation of goods through our nation. The barge industry is that mode of transportation: It is cleaner, it is safer, and it is much more efficient.

After listening to the many others who testified in November, or in November, I'm more convinced than ever that to make the change that some are wanting to make on the Missouri River will do away with much of our hydroelectricity. It will have a negative effect on our water supplies for many of our municipalities.

It will increase the truck transportation in the state of Missouri enormously. In fact, I believe Chris Bresca from MARC 2000, St. Louis,

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quoted in the numbers in the neighborhood of 395,000 more tractor trailer trucks on the highways of Missouri if the barge industry on the Missouri River disappears.

Of the 50 plus who appeared in St. Louis, only 10 percent spoke in favor of any changes. Surely the U.S. Army Corps of Engineers, who has the authority to maintain the Missouri River in the manner you are maintaining it, can perceive local interest and those effected by those changes do not want those changes.

90 percent of the people who presented testimony at St. Louis have said to you time and time again, we only support the current operation of the Missouri River. What causes the Corps to continue to listen to seek to make changes when the populous in a large majority are saying leave it alone?

I would also like to share a few other statements that Mr. Sanders was kind enough to share with me on other occasions. He said I do not think the environmentalist truly knows how much better and how much nicer the Missouri River is than before the U.S. Army Corps of Engineers began working on it and making the improvements which they have made. He

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stated that there is much more that could be done and should be done on the Missouri River to make it a more desirable asset to our nation.

He also stated that the best thing that ever happened to the Missouri River was the U.S. Army Corps of Engineers. I would like to ask you to let him stand at this time, if he would do that for me. I'm sure he would. He's sitting right over here. Mr. Sanders, would you stand.

(Applause.)

Thank you one more time.

(Typed speech attached hereto.)

BG. GENERAL FASTABEND: Thank you Mr. Dowdy. Mr. Bob Cox.

MR. COX: Good evening. It's a privilege to be here. I'm Bob Cox with Jefferson City River Terminal and Midwest Cement Company out of Jefferson City, Missouri.

The Midwest Cement Company and Jefferson City River Terminal load barges of cement at Hannibal and Clarksville, Missouri, and loaded barges in Jefferson City, Missouri on the Missouri River. The cement is unloaded to silos where it is stored and then hauled by truck to the redi-mix plants wherever it is needed in central Missouri.

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Prefab concrete, transformers, steel coils, and trains are sometimes loaded and unloaded at this terminal in Jefferson City, Missouri.

We need a minimum of eight months' navigation season to get products in and out of Jefferson City. We are opposed to a split navigation season and ask you to continue the present plans for navigation and flood control.

We hear about the birds, the least terns, the piping plover, and a fish called the pallid sturgeon. If there has been a decline in their population how many years has been involved? 40? 60? 100 years or more? Maybe the Corps of Engineers' management is not the problem.

Since the U.S. Fish and Wildlife Service claimed to know what these birds and fish need, would it really take a 2,000 miles stretch of river to accomplish it? Could it be done with habitat and surroundings close by and build a habitat that may be needed, and build some hatcheries for the pallid sturgeon and then release the sturgeon in some locations in the river?

The Midwest Cement Company and Jefferson City Terminal believe there are things that can be done to increase the population of these birds and

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fish without endangering the river for navigation and the family farmer. We ask that the companies involved in the navigation and the family farmer not be put on the endangered species list when considering the split season.

Thank you.

(Typed speech attached hereto.)

BG. GENERAL FASTABEND: Thank you, Mr. Cox. Mr. Robert Cook.

AUDIENCE MEMBER: He's not here, sir.

BG. GENERAL FASTABEND: Say that again.

AUDIENCE MEMBER: He left. He asked that --

(Mr. Cook's speech is included at the end of this verbatim record and attached hereto.)

BG. GENERAL FASTABEND: Okay. Mr. Chris Brescia.

MR. BRESCIA: Good evening, General Fastabend. My name is Chris Brescia. I am here representing MARC 2000. It's a pleasure to visit with you once again. In previous public meetings we had the opportunity to focus on navigation and flood control impacts. Today I would like to focus on the Biological Opinion which forms the basis for the alternatives proposed and the implications of the

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National Academy of Science report recently released.

At a previous public meeting and in the press, Mike Olson from the Fish and Wildlife Service stated that he was waiting for evidence in all of these public meetings critiquing the Biological Opinion, but he had heard none. Perhaps he missed my statement at the St. Louis public hearing where I submitted for the record our critique of the Biological Opinion. And in the year 2000 we submitted those comments formally.

To this date neither the Corps of Engineers or the Fish and Wildlife Service has made a single response to a review prepared by a team of biologist and endangered species specialists who were retained to comment. Recently the NAS report recommended a moratorium on changes to the Master Manual. We agreed with that suggestion, but perhaps for a different reason.

We believe that the extra time should be taken to review the Biological Opinion in light of the NAS's report's clear and honest appraisal of the state of scientific knowledge. Our critique of the Services' Biological Opinion found the following concerns: Under the Freedom of Information Act we

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requested documentation for a range of sources quoted by the Service. An entire category of references, all 44 of them, were not available. In other words, the Service could not provide us with anything to substantiate these sources.

BG. GENERAL FASTABEND: Mr. Brescia, did you already get a response from the Wildlife Service?

MR. BRESCIA: Yes.

BG. GENERAL FASTABEND: Okay. Thank you.

MR. BRESCIA: That these sources were not available, correct.

The Service ignores the possibility that alternatives less drastic than altering the flows of the Missouri River could improve the status of the listed species. Even Congress felt compelled by a vote of 100 to zero to provide guidance allowing for other alternatives to be considered. There is no meaningful analysis showing that specific measures will improve populations of the endangered species. We now know from the National Academy of Science that the reason for this is that the scientific evidence simply doesn't exist yet.

3. The Service based scientists' decisions

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on data that they themselves admit are not reliable, quote, Current wintering areas of the interior least tern remain unknown, unquote. Yet we have seen far-reaching conclusions that changes to the Missouri River are required.

4. The Service's own data contradicts some of its own conclusions. While least tern populations have met recovery goals, the Service concludes that subpopulation numbers are lacking -- reasoning that defies their own recovery document objectives.

5. The Service has chosen to ignore other means of improving population of the species concerned. They seem to ignore the fact that a host of measures, including habitat conservation enhancement, predator control, etcetera, could be responsible for achieving population increases in least terns.

They have also chosen to ignore the possibility that pollution and contaminant uptake are responsible for impact of the population of least terns, when their own data documents that 81 percent of their sampling exceeded levels considered safe for avian reproductive success. A similar situation exists for piping plover eggs collected.

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Finally, with respect to the pallid sturgeon recovery, the Service is prepared to force a disruption of many river-based commercial activities of great economic importance, but does not appear to be concerned with enforcing existing laws forbidding unlawful take of sturgeon by sport and commercial fishers. In this case also there is significant debate over whether the pallid sturgeon and the shovelnose sturgeon are indeed separate and different species.

These and many more inconsistencies simply confirm that what the National Academy of Science report concludes. Essentially they may have great ideas and theory on what may work, but they lack the critical scientifically-accepted empirical evidence suggesting that returning natural flows, a euphemism for spring rise and split seasons, reconnecting the floodplain, taking down the levees, elimination of cut-and-fill alluviations, creating a navigation channel, losses of natural riparian vegetation, which is now farmland, introduction of non-named species, like Walleye, in the reservoirs will actually work to help these species recover.

But our analysis does show that the Service has done a poor job of scientifically evaluating

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what's wrong with the species. In fact, we don't have identification of critical habitat for two of the species within seven to ten years after listing them. Better scientific information should be collected within parameters that allow other uses of the Missouri River to flourish before taking management action that could disrupt the lives of everyone on the lower basin are even considered.

Finally, a few comments on the study from the National Academy. The NAS confirmed that we don't have fundamental scientific information cast within the system-wide perspective that's important when making management decisions system wide. The NAS confirmed that, quote, The most scientific unknowns of the Missouri River ecosystem, are how the ecosystem will respond to management action designed to improve ecological conditions, unquote. The NAS believes that we should proceed slowly in a collaborative processes that has clear goals and desired outcomes so that progress toward desired future conditions can be assured. We need a better understanding of critical habitat before we can proceed this way.

Other 14

4. The National Academy of Science says that even though Adaptive Management may be the best

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idea we have so far, there is, quote, Inadequate experience with successful or unsuccessful experiments that comprehensively evaluate the underlying theory, unquote. In plain English that's we don't know if this would work.

Finally, the National Academy of Science says we have to consider our ecosystem goals in tandem with the other management goals in the entire Missouri River system. That belies the Service's approach of species at all cost.

MARC 2000 continues to oppose the five alternatives that have been proposed that are different from the current Master Control Manual until we can see that there is an adequate balance for the fundamental uses, Congressionally-authorized purposes of the Missouri River.

Thank you for the opportunity to address these points today.

(Typed speech attached hereto.)

BG. GENERAL FASTABEND: Thank you Mr. Brescia.

Some of you may be wondering if we're going to have a break. I don't intend to do it. If you've seen the recently-released movie "Blackhawk Down," there's a scene where a battalion commander

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is standing next to his Humvee in the streets, and bullets are hitting all around, and he asks a guy from the delta team, How long is clearing this building going to take? And he says, Five minutes. And the battalion commander said, Nothing ever takes five minutes.

And I believe breaks never take five minutes either. So what I want to do is power on through. We've got about eight more folks here and we will go pretty quickly here. If you need to take a break, you are welcome to do that. If we missed your name we will put you back in the queue when you come back in the room.

Mr. Robert Goodroe. Goodwin, I'm sorry, Goodwin.

MR. GOODWIN: I thought I printed better than that.

BG. GENERAL FASTABEND: You did, I just didn't read as well as that.

MR. GOODWIN: That's all right, I'm about the only one that can read my printing, so don't feel bad.

Good evening, General. It's a pleasure to be here. My name is Robert Goodwin. I'm representing the Maritime Administration, Modal

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Agency, of the U.S. Department of Transportation. We will be submitting a formal statement from the Maritime Administration on the Revised Environmental Draft Statement. And in the interest of time tonight, I would like to just hit on four issues that we think are the primary concerns. The spring rise, the mid summer draw-down, the water depletion, and the economic analysis on the mid Mississippi.

FC 8
WS 11
GW 7
Nav 30
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Our initial concern deals with the fact that with the exception of the current water control plan, each of the other five alternatives listed in the draft environmental assessment penalizes commercial navigation on flood control and water supply. Now, the proposed artificial spring rise, which is an integral part of four of the proposed alternatives, places additional water in the river at a time when any precipitation below Sioux City could result in serious flooding.

The artificial spring rise coupled with normal precipitation would raise the ground water tables of the plains, and farmers below Sioux City would find it difficult to work and plant their fields adjacent to the river. The artificial spring rise would also deplete the water available in the main stem reservoirs that may be needed later in the

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summer to supplement releases from Gavins Point to support commercial navigation and water supply for the states in the lower basin.

The most damning point that we have discovered in a review of the draft environmental assessment concerns the artificial spring rise -- concerning the artificial spring rise, is that it impacts only the stretch of river immediately below the Gavins Point dam. The rational behind U.S. Fish and Wildlife's recommendation for this official spring rise is that it may trigger the pallid sturgeon to spawn.

The problem is that by releasing additional water from the main stem reservoirs in the spring, the Corps is jeopardizing all the states and businesses that rely on the Corps for flood protection in the spring and later in the year for an adequate water supply. The only possible benefit of this action is the impact on any pallid sturgeon that may live and be triggered to spawn in the river mouths immediately below the Gavins Point dam.

In effect, those who live and work on the Missouri River between Sioux City and St. Louis, over 1,000 river miles, will pay a high price for the possible environmental enhancement that may

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trigger the pallid sturgeon to spawn. I would like to see a comprehensive benefit analysis of this recommendation.

Nav 12
EnSp 43
Miss 4

Another concern that we have emanating from the Draft Environmental Assessment deals with the U.S. Fish and Wildlife's proposal for a split navigation season. The rational is that if the river can be drawn down between June, July, and August, sandbars and river banks will be exposed and allowed to dry to the point where vegetation will grow, providing cover for the least tern and piping plover to nest.

While regulation of the navigation pools in the upper Mississippi River for environmental enhancement has been successfully implemented in a similar fashion in recent years, and the Maritime Administration has participated in and encouraged this program, we have serious reservations about drawing down the Missouri River during the summer and splitting the navigation season.

There are a number of differences between the two programs that must be noted. First, the draw-down of the navigation pools in the upper Mississippi River were designed to not have a detrimental impact on commercial navigation. The

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navigation pool draw downs were limited to certain river stages and water flow rates, and problem areas of the navigation channel dredged to ensure that tow boats can continue to operate during the draw-downs.

However, on the Missouri River the plan, as contained in the Draft Environmental Assessment, would result in the cessation of commercial navigation during the duration of the draw-down. We have discussed this issue with the barge line shippers, excursion vessel operators, and dock operators on the entire Missouri River. And without exception they have advised us that a split navigation season would result in them either going out of business, or force them to relocate their business out of the Missouri basin.

Power generation and water supply companies also expressed concern that the split navigation season would result in low-water conditions that would negatively impact their ability to conduct their business. The most important fact that we learned in our review of the Draft Environmental Assessment related to the issue is -- excuse me, related to the Draft Environment -- related to this issue is that the draw-down and split navigation season resulted in the exposure of only 164 acres.

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Farmers and businesses occupying over 2,000 miles of river bank along the Missouri River could be detrimentally impacted for the possible benefit of the least tern and piping plover habitat in 164 acres. Again, we would want to see a comprehensive benefit cost analysis of this recommendation. We also ask for -- blah. I can't talk tonight.

Miss 4, 30

We also have some concerns of a more technical nature. The Corps has not taken into consideration the economic impact of reducing flows from the Missouri River on the middle Mississippi River. During periods of low flows on the middle Mississippi River, as much as 60 percent of the water that passes in front of the St. Louis Arch comes from the Missouri River. Without this water commercial navigation would not be possible above Cairo, Illinois.

The Missouri Department of Natural Resources has researched this issue and has determined that the navigation on the middle Mississippi would be adversely affected by all the alternatives except for the current annual operating plan. We have also determined that if the Corps either eliminated the river stage information from 1939, or we gather analysis after 1950 when all the locks and dams had

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been completed on the upper Mississippi and Illinois Rivers, only the current operating plan would provide the volume of water from the Missouri River to sustain navigation on the middle Mississippi River.

Nav 12 Rec 19 Miss 29

To save time, on the water petition analysis, the Maritime Administration supports the position of the Missouri Department of Natural Resources and concurs with their analysis. And the last issue is economic analysis. When conducting the economic analysis of the impact of split navigation seasons and the artifical spring rise, it is important that the Corps utilize the same methodology to assess the economic impact of the alternatives of both commercial and recreational activities.

By analyzing the commercial impacts, the Corps must include water-controlled rate savings and also include the potential ripple effect of jobs lost if commercial navigation is curtailed or eliminated. The Corps must also take into consideration the economic impact on dock operators, shippers, excursion boat operators, on the middle Mississippi River.

These companies depend on a consistent

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adequate flow from the Missouri River to ensure that we have a stable, accessible navigation channel to in place business. The only position that Maritime Administration can support at this point in time, given the analysis that we have had over the environmental assessment, is the current water operating plan.

Thank you.

(Typed speech to be provided.)

BG. GENERAL FASTABEND: Thank you, Mr. Goodwin. Mr. James Fletcher.

MR. FLETCHER: My name is James Fletcher. I'm a member of the board of supervisors of the Little River Drainage District and also a farmer. I want to thank you, General, for holding this hearing, and I want to thank Senator Bond for fighting our battles for us. Since the beginning of organized civilization, the rivers have been -- played an important part in the development and growth of the world.

This nation is blessed with one of the greatest systems of all, the Mississippi, Missouri, and the Ohio that drain flood waters from most all the land between the Rocky Mountains and the Appalachians. Not only is it one of the greatest

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storm drain systems, but it also furnishes us with a very important means of transportation. Railroads, especially in our small towns, have apparently advocated their responsibility to move the freight and products of our area.

Highways are not now capable of handling the overload that would result in the closing of the river navigation. Closing of the rivers as a means of -- handling our product is the only solution. Our problem, rivers are our only means of transportation for those of us in my area. 90 percent of all of our products go out by river. Without this we're dead in the water. We try to compete with the world in production of food; we do a damn good job of it.

Thank you.

(Typed speech was not provided.)

BG. GENERAL FASTABEND: Thank you very much, Mr. Fletcher. Mr. Michael Geske. Or Gerke? You're going to have to tell me at the end here.

MR. GESKE: You did fine the first time.

BG. GENERAL FASTABEND: Okay.

MR. GESKE: Good evening, General. My name is Mike Geske. I am an agricultural producer from Matthews, Missouri, a small town in the

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bootheel of Missouri. And I'm here tonight representing the Missouri Corn Growers Association, a grass roots organization representing corn growers across Missouri. I currently serve on the board of directors of that organization.

Basically MCGA supports the current water control plan because we feel it's the only feasible alternative presented by the Corps of Engineers. It's our position that all of the proposed alternatives would be devastating for agricultural. But beyond that, General, you've had some tremendous speakers here tonight, and I really can't add anything. I would be happy to present my testimony and save some time.

(Typed speech attached hereto.)

BG. GENERAL FASTABEND: On behalf of the entire audience, Mr. Geske, I thank you.

(Laughter.)

Mr. George Grugett.

MR. GRUGETT: I'm also handing in a statement for Mr. David Brewer who is the president of Levy District Number 3, Mississippi County, Missouri. Again, I want to offer my congratulations on your promotion, but most important to we people down here is your assignment to the Mississippi

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River Commission. That we really appreciate.

BG. GENERAL FASTABEND: I look forward to the spring tour.

MR. GRUGETT: You will enjoy it, sir. My name is George Grugett. And I'm the executive vice-president of the Mississippi Valley Flood Control Association, which is an agency which all the people in the Mississippi River Valley may speak and act jointly on all flood control, navigation, bank stabilization, and major drainage problems.

Association members are, for the most part, elected officials from the levy boards, drainage districts, harbors and port commissions, states, cities and towns, and all other agencies and individuals along the Mississippi River and its tributaries that share our common concerns and problems. The officers of the association are president, Congressman Marion Berry from Arkansas; vice-president, Senator Mary Landreau from Louisiana and Congressman Leonard Boswell from Iowa.

As I mentioned earlier, I'm the executive vice-president. General, I've survived a Great Depression, combat in World War II, several attempts to educate me, to a duty in Washington, D.C. back when the only building at National Airport was a

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little two-story building built by the Corps of Engineers, who at that time was the premier builders of this nation.

I fought my first flood on the Mississippi River in 1950, on the Missouri River in 1952, again in 1954, on the Kuskokwim in 1957. This is my fourth public hearing to discuss this operation of the plan for the Missouri River. I thought that at some time before the devil sent for me I would write my memoirs, and the title, I think, would be Public Hearings and How to Waste Your Time and Money.

(Laughter.)

This thing of changing the master plan on the Missouri River has been going on for so many years, that a child born when this thing first started are ready to go to college. We can't use our time like this. All the meetings on this subject that I have attended are filled with people speaking in strong opposition to any change in the present operational plan for the Missouri River.

I've heard all the figures considered -- concerning damages to both the economy and the environment. About how to replace a 40 ton -- 40-barge tow would require a train of over seven miles long. Think about sitting at a railroad

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1 crossing waiting for that dude to go by. It would
2 take 2300 trucks stretching over 90 miles. Who in
3 his or her right minds wants to see more 18-wheelers
4 on the highway? All these figures must be correct,
5 and their accuracy I'm sure can be checked.
6 But I guess when you're talking about a
7 couple of birds and an ugly old fish, that all those
8 things that will surely devastate the economy -- the
9 environment means nothing. I sincerely believe that
10 everyone in this room knows that we're not here
11 talking about two kinds of birds and an ugly old
12 fish. If you do have some strong feel about terns
13 and plovers, I suggest you make a trip down to Gulf
14 Port, Mississippi, take a left on Highway 90, look
15 to your right as you're driving over to Biloxi, it
16 will be a short distance, you'll see about a jillion
17 of these birds on the beach there.
18 If you have some kind of emotional
19 attachment to this fish, try fishing anywhere south
20 of here and count the number of times you'll curse
21 that fish for bending your hook and getting away
22 with your bait. As I've said before, make no
23 mistake, these proposed changes have little or
24 nothing to do with birds or fish in the Missouri
25 River; it all has to do with money, recreational

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1 money.
2 To be specific, all six of the alternatives
3 would allow for additional water storage in the
4 upstream reservoirs, in Montana and the Dakotas, to
5 keep them at a higher level that will benefit the
6 water recreation. You don't have to be a history
7 professor to know those reservoirs were not built
8 with taxpayers' dollars for the use of water skiers
9 and boaters and fishermen. There were built for
10 flood control and navigation.
11 The fact that water-related recreation has
12 become such a financial windfall for the states of
13 Montana and the Dakotas is great, but we must not
14 sacrifice flood control and navigation in the
15 Missouri and Mississippi River. And I emphasize the
16 Mississippi.
17 I know from firsthand experience in 1988,
18 the Assistant Secretary of the Army at that time,
19 the Honorable Walter Page ordered that the water be
20 released from those reservoirs on the Missouri. The
21 head of navigation would have been in the vicinity
22 of Natchez, Mississippi. And that would have
23 stopped all navigation on the Mississippi, the
24 Missouri, the Ohio, the Tennessee, the Cumberland,
25 the Mississippi, and all its tributaries.

Rec 3

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1 The current water control for the Missouri
2 River has worked well for many, many years. It
3 still works well. Leave it alone. Let's everybody
4 go home and go to work, and none of us need to be
5 spending time with this kind of foolishness.
6 Thank you, sir.
7 (Typed speech attached hereto.)
8 BG. GENERAL FASTABEND: Thank you,
9 Mr. Grugett. Thank you for your military service.
10 I hope I don't get in your book.
11 (Laughter.)
12 Mr. Thomas Tucker.
13 MR. TUCKER: Thank you, General.
14 There's one thing I've observed over the years about
15 attending public meetings. Public entities buy
16 lousy chairs. It's my pleasure to be able to have
17 this opportunity to give testimony with regards to
18 potentially reducing flows during portions of the
19 year on the Missouri River, and increasing flows
20 during the spring time of the year, which will have
21 a considerable impact on both the Missouri and
22 Mississippi Rivers.
23 I'm here this evening representing the New
24 Bourbon Regional Port Authority which has a site
25 permit at mile 120 1/2 on the Mississippi River. In

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1 addition to serving as staff to the New Bourbon
2 Regional Port Authority, our staff is employed by
3 the Southeast Missouri Regional Planning and
4 Economic Development Commission, which has a keen
5 interest in the economic future of our region,
6 including the three counties that border the
7 Mississippi River, which are St. Genevieve, Perry,
8 and Cape Girardeau Counties.
9 In this stretch of the river two port
10 authorities are located. In addition to the New
11 Bourbon Port site, which is in the developmental
12 stage at this time, the Southeast Missouri Regional
13 Port Authority is located in Cape Girardeau and
14 Scott Counties. It is a full-fledged port
15 authority, which is a coal operation in the
16 slackwater harbor, it's own shortline railroad, and
17 obviously loading and off-loading facilities.
18 I want to make it perfectly clear that none
19 of the organizations with which I work or represent
20 are anti-environment. I worked for over 31 years,
21 and I saw personally on community and economic
22 development projects which improved the environment
23 in our seven-county region. We serve seven
24 counties, Bollinger, Cape Girardeau, Iron, Madison,
25 Perry, St. Francois, and St. Genevieve, and 35

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1 incorporated communities.
2 We work diligently to improve potable water
3 supply, storage, treatment, and transmission,
4 development or upgrading of wastewater treatment
5 facilities, open space development, and our
6 organization has designed over 50 recreational park
7 facilities which are now in place. We believe the
8 fluctuations proposed in the Missouri River will
9 create considerable problems not only in the
10 Missouri River but also in the Mississippi River.
11 There are several points that I wish to make
12 with you, and I will iterate those below.
13 1. The stretch of the Mississippi River
14 from St. Louis to Cairo is often referred to as the
15 bottleneck reach because of the need for flow
16 support to provide transportation needs. During the
17 periods of low flow on the Mississippi, the Missouri
18 River provides as much as two-thirds of the water of
19 the bottleneck reach of the Mississippi River,
20 supporting navigation and other beneficial uses of
21 the river. Depletion of water from the Missouri
22 River will further increase the problems of low flow
23 in this stretch.
24 2. Reduced flows in both the Missouri River
25 and Mississippi Rivers will tend to increase

Miss 4

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1 shipping costs for Midwest grain producers, further
2 reducing their ability to compete with foreign
3 producers.
4 3. Reduced barge shipments caused by either
5 spring flooding or low river flow will increase the
6 amount of shipping by rail and truck, further
7 compounding surface transportation congestion and
8 adding air pollution and raising fuel consumption.
9 Additionally, we have concerns about whether or not
10 there is sufficient truck and rail capacity if the
11 rivers were closed to traffic.
12 4. Because of the proposed changes in the
13 flow on the Missouri River, we see the potential for
14 additional flooding to very valuable farm land which
15 may also disrupt interstate travel as it did in
16 1993. We consider this to be very detrimental to
17 the economy and livelihood of those who reside in
18 our seven counties.
19 5. The cost of shipment of low sulphur coal
20 on the Missouri River and into the Mississippi may
21 well be diverted to rail and truck traffic, which
22 would most assuredly increase the cost of
23 transportation both of the coal and cost -- cause
24 the price of electricity to escalate perhaps as much
25 as 10 percent, which would have an impact on all

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1 electrical -- all electricity users served by these
2 plants that use coal.
3 6. Impediments to the flow of the river
4 traffic on the Missouri and Mississippi Rivers will
5 greatly impact -- greatly impact exporting of
6 various materials through the Missouri and
7 Mississippi River system and on to New Orleans.
8 There are already times during drought when the
9 Mississippi River is closed down, and it's due to
10 the fact that sufficient channel depth is not
11 available to take loaded tows up and down the river.
12 7. Causing high levels of water in the
13 spring and low levels of water during the remainder
14 of the year simply by proposed releases -- simply by
15 proposed releases may well either put port
16 authorities out of business because of high water,
17 or equally important low water. This will mean that
18 thousands of jobs will be impacted by the port
19 authorities of Missouri alone.
20 We firmly believe that the Missouri River
21 can be left to flow as it is now, and provide the
22 ample opportunity for wildlife to utilize the river
23 system. It is felt that if additional wetlands are
24 needed to be created, then it would be done for less
25 expense than to construct additional wetland areas

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1 than to have the negative economic impact which will
2 occur with the proposals that are being presented.
3 Thank you for the opportunity to make the
4 comments for public record, and hopefully you will
5 reconsider the plan as it now stands.
6 Thank you, General.
7 (Typed speech attached hereto.)
8 BG. GENERAL FASTABEND: Thank you,
9 Mr. Tucker. Carrie Jenks.
10 MRS. JENKS: Good evening. Carrie
11 Jenks, Lafarge North America, Incorporated. I will
12 be brief. I am the barge scheduler in the River
13 Region for Lafarge North America, we currently
14 supply six plants and eleven terminals out of this
15 region. The Sugar Creek, Missouri plant is the one
16 that will be most directly impacted, as well as the
17 Omaha terminal for us. Lafarge has invested heavily
18 in these two facilities.
19 Kansas City will increase their production
20 from 500,000 tons to 900,000 tons a year. And they
21 have also invested $300,000 in barges to maintain
22 transportation between Kansas City and Omaha,
23 Nebraska. And I will skip to the end. Lafarge
24 North America supports the current water control
25 plan for the operation of the Missouri River.

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Thank you very much.
(Typed speech attached hereto.)
BG. GENERAL FASTABEND: Thank you, Ms. Jenks. Mr. Dan Overbey.
MR. OVERBEY: Thank you. I turned in the statement outside, and also turned one in for the director of the Pemiscot County Port Authority and the Madrid County Port Authority, that's south of here.
The Southeast Missouri Regional Port Authority was formed by the citizens of the two counties, Scott and Cape Girardeau County in 1975. And we are very close to the local people here. They voted, of course, a sales tax by over 70 percent in each county that ran for four years and then since then. So we are not really made with taxpayer dollars, it was more with taxpayer pennies and nickels. And that was used to match with bucks from the Corps, the EPA, that's how we got our 1800 foot slackwater harbor.
That leads to a number of concerns about the different proposals that have been made for the Missouri River, most of which I will summarize by saying a little more flood and a little more drought. On the flood side we had a little flood

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around here in 1993 and one in 1995. If you care to, on your way out, turn left at the stoplight, go down by the flood wall and see the mark that was made there. It came pretty close to the top of that flood wall.
Out at the port, the board put in a policy a long time ago, building everything that we could to a foot above 500-year flood, not 100-year, but 500-year, that's four more feet. We put in quite a bit of dirt off some of our sites to the state highway department to help build a mile of state highway, raise it four feet. And that was done to protect the local taxpayer investment. Wherever we could, the private industries helped support. But '93 and '95 and increasing floods have shown that, we hope is enough of a difference, but it was done for protection.
And it seems a little strange to have federal government proposing to put more flood water up against the investment we've made here with local dollars and with federal dollars. If the flood comes up and goes over the flood wall in downtown Cape, we should be safe. But before that happens downtown Cape would be gone and thousands and thousands and thousands of acres in Southern

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Illinois and Southern Missouri. So again, we take that very seriously, the prospect of just a little more flood.
For a little more drought every year and every summer it's a challenge to keep the river open to navigation. I've had the privilege of sitting besides some of the folks from St. Louis District, Lance Ingles, Steve Dirker, and watching them agonize to where to deploy the dredges. A dredge is $30, $40, $50,000 a day. They have a contract dredge, they (referring to the Corps) have The Potter that's coming back. But at times they have to reach into Memphis District and bring up The Hurley, and get another contract dredger, do anything they can.
But it's a real challenge, they know this area is going to need dredging in a week, but this one up north of St. Louis is going to need it in a few days. Do you waste the travel time going up, or do you risk shutting down the river? It's a very, very tough job, and they ring their hands and suffer a lot trying to figure out what to do next. To their credit they do a very good job. They try to keep the river open, they try to keep our port dredged. We come behind keeping the main channel

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open. Somehow they manage to make it all work and take care of us and the river.
1988 with the low water, a lot of barges had to light load. It ran up the cost of transportation and ran down the amount of money that the farmers received. And it cost the Corps a lot of money to dredge, to go in later and blast some rock out of the channel south of the Thebes bridge.
One last little thing I noticed in the Timmie Lynn Hunter statement, she mentioned that they have signs on the island across from New Madrid in the spring time that says people can't use the island because of the least tern. And yet if the proposal goes through there will be more water coming down the Mississippi in the spring, flood the island where the least terns are supposed to be by Madrid. So the question is, are the least terns in New Madrid worth less than the least terns up in South Dakota and Nebraska? That's the questions he asks.
Thank you.
(Typed speech attached hereto.)
BG. GENERAL FASTABEND: Thank you, Mr. Overbey. Is Mr. David Brewer here?
MR. OVERBEY: Sir, I turned in his

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statement.
(Messrs. Brewer and Madison and Ms. Hunter's speeches are included at the end of this verbatim record and attached hereto.)
BG. GENERAL FASTABEND: That's what I thought, that's why I asked. Would anyone else like to make a statement? Okay. Well, let me just make a little statement in closing. As I sit here and listen to what's a pretty uniform direction of opinion, I imagine that you guys must be sitting out there thinking the Corps of Engineers is dumber than a box of rocks, because it's 100 percent. How hard is it to take a vote? I assure you as you go up and down the basin, the reign of opinion gets more diverse till you get to about the midsection.
Then when you got all the way to the other end it's just as uniform, but in the opposite direction. My area of responsibility goes all the way from St. Louis to Seattle. I have not only the Columbia River Basin but also the Missouri. I was going to a hearing on salmon recovery on the Columbia one day, and the director of the Fish and Wildlife Service asked me, you know, what it felt to be a guy in uniform going into a hearing like that, that was going to be very contentious.

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And he asked me what does your military training ever get you ready for something like this, I said probably my several months I spent in Bosnia. Because in every case you have several warring factions. There's a long history of distrust between the warring factions. They don't communicate very well. They believe that there's a long history of ill intent and ill will on the part of their opponents, and everybody believes God is on their side.
We've been going at this issue for a long time. I'm committed to try to bring it to a close, a successful close. The Corps of Engineers is uniquely postured to be the agency that tries to account for all the purposes for which these projects were built, and at the same time comply with the Endangered Species Act. That is a tremendous challenge. In this situation we're committed to do the best job we can.
When we're in a situation like this, our experience again and again, has been when you've got a really contentious situation, if you can get as much input as possible from all the parties involved, you have the best chance of coming to a solution that's going to succeed in the end.

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Therefore I really welcome the time you gave me this evening and all your views. I'll consider them very carefully.
If anybody else later on thinks of additional comments they want to give us, they can send them to us before 28 February. That's the end of the close-out period. And I thank you very much for your participation here this evening.
These proceedings are closed.

(The following statements were provided at the time of the hearing, but the individuals were not present to deliver their statement.)

Letter dated January 17, 2002 provided from the office of David Schwab by Members of the Missouri Legislature to Rose Hargrave.
Dear Ms. Hargrave:
As members of the Missouri Legislature representing citizens affected by the Mississippi River, we would like to address the proposed changes in the Missouri River Master Manual Revised Draft Environmental Impact Statement. The Missouri Senate and House of Representatives passed Senate

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Concurrent Resolution Number 13 during the Legislative session in 2001, which we are enclosing. This letter is to also indicate our desire that the current water control plan be maintained as the guidance plan for Master Manual operations. Of the alternatives currently under consideration by the Corps, we believe the five other options for proposed management changes create the potential for the following concerns:
* Summer flows reduced to below minimum navigation levels on the Missouri River will negatively impact river commerce on the Mississippi River. The MCP alternative decreases flow support to the Mississippi 40 out of 100 years (40 percent). Missouri DNR analysis indicates that 75 percent of the time or 30 out of 40 years, these cutbacks in flow coincide with low water on the Mississippi. The current water control plan decreases flow support 9 percent of the time and coincides with low water on the Mississippi about 78 percent of the time. The reduced flows of the Gavins Point flow regimes will adversely impact Mississippi River operations between Cairo, IL and St. Louis, MO. Flow reliability contributed to the Mississippi River by the Missouri is undoubtedly greater with

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FC 8 IntD 8

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the current water control plan than with any other.

* A man-made "spring rise" has the potential to cause flooding and inland agricultural drainage problems. The U.S. Army Corps of Engineers (Corps) does not have the ability to accurately forecast rain events or rain runoff and can, therefore, release water in advance of a major rainstorm creating flood devastation. Missouri River dams, originally built to reduce flooding, have prevented $18 billion in flood damages and should continue to be used to prevent, rather than create, floods.

* Higher reservoir levels reduce the water commitment to downstream states impacting future water supplies needed for irrigation, municipal drinking water, river commerce and water quality standard permitting.

* Summer flows reduced to "minimum" navigation levels or below will devastate congressionally-authorized river commerce on the Missouri River. Annual regional economic benefits from Missouri River commerce are $75-200 million per year. Studies by FAPRI at the University of Missouri indicate the loss of this river commerce could reduce the commodity corn price by 19 cents per bushel, with similar reduction in crop prices

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for soybeans and wheat (10 percent of the current price paid to farmers).

* Flow reductions may also jeopardize the ability of utilities that draw Missouri River cooling water to meet the electricity needs of their customers during critical electrical demands. Water supply users may also be affected by water quality issues as discharges are made into a lower flowing river.

* Adaptive Management creates too much freedom for the Corps to adjust river management, and specifically flow management, without any significant input from the public. It also provides to safeguards for the social and economic impacts that will undoubtedly occur.

The National Academy of Science Report stated, "The most significant scientific unknowns in the Missouri River ecosystem are how the ecosystem will respond to management actions designed to improve ecological conditions." In essence, the problems have been identified but the proposed solutions are highly questionable. Decisions made on future management of the river must take into account the social and economic costs to all stakeholders in addition to the one-dimensional

Miss 25

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focus on conservation that has defined this process to date.

Agriculture, Missouri River commerce and energy production have played a tremendous role in the making of this great nation. The Mississippi River, too, has a rich history in our nation's development. To minimize the importance of the Missouri River's role in Mississippi River flow support along with that of the potential negative economic impacts to agriculture, river commerce and energy production will create a precedent that is not in this country's best interest.

With this in mind, we respectfully request the U.S. Army Corps of Engineers continue with the current water control plan as the option of choice for Missouri River management.

Sincerely,

Senator Peter Kinder, District 27
Senator Bill Foster, Senator 25
Representative David Schwab, District 157
Representative Lanie Black, District 161
Representative Peter Myers, District 160
Representative Mark Richardson, District 154
Representative Phillip Britt, District 163
Representative Jason Crowell, District 158

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Representative Rod Jetton, District 156
Representative Patrick Naeger, District 155
Representative Denny Merideth, III, District 162
Representative Robert Mayer, District 159

ATTACHMENT READS AS FOLLOWS:

Sixty-third Day -- Thursday, April 26, 2001 1380
House Committee Substitute for Senate Substitute for Senate Concurrent Resolution No. 13.

WHEREAS, the United States Fish and Wildlife Service has recommended that the United States Army Corps of Engineers implement the so-called "spring rise-split season" plan for operation of the Missouri River mainstem reservoir system. This plan would result in an increase in the flow of the Missouri River in the spring and a reduction of the flow in the summer of each year, purportedly to improve habitat for the threatened and endangered pallid sturgeon, least tern and piping plover; and

WHEREAS, additional changes under consideration by the United States Army Corps of Engineers to the Missouri River Master Manual would result in the storage of more water in the upstream

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reservoirs while decreasing the amount of water available downstream for designated uses. These changes would shorten the navigation season on the Missouri River by twenty-seven days in November and put at risk Mississippi River navigation as well; and

WHEREAS, analysis of the proposed changes by the State of Missouri and the United States Army Corps of Engineers has indicated these changes will fail to improve and will potentially diminish habitat for the species in question, will increase the risk of flooding along the Missouri River, and will result in a decrease in river levels in early summer and fall which will impact navigation and other designated uses on the Missouri and Mississippi Rivers; and

WHEREAS, habitat restoration along the lower Mississippi River has demonstrated great success in aiding the recovery of these species and a similar approach should be given the opportunity to succeed on the Missouri River; and

WHEREAS, these plans have the potential for severe impact on any industry which uses the Missouri River or Mississippi River to transport products and the potential to increase risk of

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flooding in river communities and on farm land in the Missouri and lower Mississippi River basins; and

WHEREAS, these proposals do not adequately address the concerns and needs of states in the lower Missouri and Mississippi River basin, and will not realize the purported benefit of increasing habitat for endangered species; and

WHEREAS, the Missouri departments of natural resources, conservation and transportation have opposed these plans and have informed the Fish and Wildlife Service and the United States Army Corps of Engineers of their concerns regarding the potential impact on the state's river communities, lands, businesses and wildlife habitat:

NOW, THEREFORE, BE IT RESOLVED that the members of the Missouri Senate, Ninety-first General Assembly, First Regular Session, the House of Representatives concurring therein, hereby urge the Governor to protest against any proposals that would so negatively impact beneficial uses of the lower Missouri and Mississippi Rivers and would not significantly improve conditions for the species of concern; and

BE IT FURTHER RESOLVED that the members of the General Assembly urge the Department of Natural

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Resources, the Department of Conservation and the Department of Transportation to continue to insist that any plan involving the operations of the Missouri River improve the Missouri River for all beneficial uses and be sure any river management changes are based on sound science; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare properly inscribed copies of this resolution for the United States Fish and Wildlife Service, the United States Army Corps of Engineers, the Governor of Missouri, the Director of the Department of Natural Resources, the Director of the Department of Conservation and the Director of the Department of Transportation.

Committee on Critical Issues, Consumer Protection and Housing, Chairman Harlan reporting.

Statement dated January 21, 2002 provided from David B. Brewer, Mississippi County, Levee District No. 3.

My name is David B. Brewer. I am president of Levee District Number 3 of Mississippi County, Missouri. Our Levee District is responsible for several miles of levee above the confluence of the Mississippi and Ohio Rivers and several miles of levee below the confluence of those two rivers. Our

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Levee District operates two pumping plants during periods of high water. We cannot stand any more discharges of water from above than we are now receiving.

We are here to show support for Senator Kit Bond and the people of the State of Missouri who oppose any change in the operating plan for the Missouri River. We cannot take a chance that any new operational plan could adversely affect flood control and navigation.

We support the present Master Control Plan that works and follows the purpose (flood control and navigation) for which the reservoirs in Montana and the Dakotas were built.

Our Levee Districts purpose is to protect the lives and property of people. Those advocating a change in the current water control plan, we think, want to protect something else. We plan to stick to our mission and we thank Senator Kit Bond as well as Representative Jo Ann Emerson for their continued help and support in this fight.

Sincerely,

David B. Brewer

24 (Pages 90 to 93)

See L0400 002

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Letter dated January 21, 2002 provided from David P. Madison, Pemiscot County Port Authority to the U.S. Army Corps of Engineers.
Dear Madam or Sir:
I regret that I am unable to attend the public meeting on the Revised Draft Environmental Impact Statement for the Missouri River Water Control Manual in Cape Girardeau tonight. Nevertheless, I wish to enter the following comments on behalf of the Pemiscot County Port Authority, a public port located at mile 849 on the Lower Mississippi River.
My board of commissioners and I have reviewed available materials on the six alternatives presented in the RDEIS. We are convinced that all proposed alternatives to the Current Water Control Plan would have an adverse effect on navigation and flood control on the Missouri River. Moreover, we believe that all these alternatives would also adversely impact navigation and flood control on the Upper Mississippi south of St. Louis and on the Lower Mississippi.
In addition to annual maintenance dredging at our port and other ports on the Lower Mississippi, periodic emergency dredging has been

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required to maintain adequate draft depths in our harbors more frequently in recent years. Proposed alternatives to the CWCP would reduce flows downstream, further exacerbating this serious situation.
We also believe that the environmental arguments in favor of other alternatives are merely smokescreens for the usurpation of water rights by a variety of interests in upstream states. Rejection of the CWCP cannot be justified on any but blatantly political grounds.
We urge the Corps of Engineers to reject the proposed alternatives and support operation of the Missouri under the Current Water Control Plan.
Sincerely.
David P. Madison, Executive Director

Statement dated January 21, 2002 provided from Timmie L. Hunter, Executive Director, New Madrid County Port Authority.
The definition of the word: Re.gres.sion
Pronunciation: Re-'gre-sh&n
1. The act of an instance of regressing.
2. A trend or shift toward a lower or less perfect state.

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3. Reversion to an earlier behavioral level - gradual loss of acquired skills. Retrograde motion.

The definition of the word: Ret.ro.grade
Pronunciation: 're-tr&-"grad
1. Having a direction contrary to that of the general motion of similar bodies.
2. Moving, occurring, or performed in a backward direction or opposite to the usual direction.
3. Tending toward or resulting in a worse or previous state, archaic, to turn back, reverse to a worse condition. Backward.

These are but two of the words that could be used to describe the Missouri River should the Corps of Engineers decide to change its current flow.
I have been Executive Director of the New Madrid County Port Authority for the past three (3) years. During my second year at the port, the Mississippi River was so low, the Crops had to perform an emergency dredge to enable the farm commodities to move in and out of the slack-water harbor. This past summer the New Madrid City Harbor had to be dredged and a down-stream dike had to be degraded to correct the silting problems at the

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harbor. Low River stages for the past two years has required the electric company in the St. Jude Industrial Park to use a large pumping barge to transport water into their facility.
Springtime for the past several years has seen signs posted on the sand bars across the river from the town of New Madrid and Portageville. These signs warn humans of the fines they would encounter should they decide to use the sand bars for recreations . . . You see, this was the season for the hatching of the least tern and the humans would disrupt the birds normal nesting pattern of laying eggs on top of the sand. The humans complied and we waited until the signs were removed before we used the sand bar for fishing and water sports.
One of the Corps-proposed alternatives is a plan to mimic traditional seasonal flow changes -- a surge in the spring when mountain snow melts and less water in the summer and some say this is the only way to comply with the federal Endangered Species Act. My first question to you is this: 1. What's going to happen to the least terns in our neck of the woods? Correct me if I'm wrong but aren't least terns endangered species and would this mean the least terns on the Missouri River are more

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EnSp 53

25 (Pages 94 to 97)

Miss 4, 36 Nav 23 EnSp 53

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important than the least terns on the Mississippi River.
Less water on the Missouri River in the summer means less water on the Mississippi River. Less barge traffic, higher transportation prices, more trucks on the highway, more accidents on the highways, more harbor dredging, more money spent to maintain navigation on both rivers. So my remaining questions to you are:
Can the Corps guarantee the dredging will be done at no extra cost to the Port Authority, Tenants or Farmers? Can the Corps guarantee the prices to transport commodities will not increase? Can the Corps guarantee the least terns will be able to raise their young on the sand bars of New Madrid and Portageville? Can the Corps guarantee there will be time available for the area people to enjoy recreation on the river? Can the Corps guarantee my children will be safe on the highways with the addition of so many trucks since the barges won't be able to travel the rivers as they have in the past?

Timmie L. Hunter, Executive Director, New Madrid County Port Authority, 600 Main Street, New Madrid, MO.

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Statement dated January 21, 2002 from Mr. Looman F. Stingo, Holcim (US) Inc.
Good evening. My name is Looman Stingo, Chairman of the Board for the Midwest Area River Coalition (MARC) 2000 and Senior Vice President, Logistics for Holcim. I would like to begin by thanking the members of the United States Army Corps of Engineers-Northwestern Division for allowing me to provide this testimony on the Revised Draft Environmental Impact Statement (RDEIS) for the Missouri River Master Water Control Manual.
As you know, MARC 2000 is a coalition of agricultural, industrial, environmental, and government interests aimed at promoting Midwest economic growth by responsibly developing and improving the Upper Mississippi and Illinois River Systems.
Holcim is one of the world's leading suppliers of cement, aggregates, and concrete. Holcim has over 3,300 inland barge movements annually, accounting for approximately 2.9 billion ton-miles from ports all along the Mississippi stretching as far north as Minneapolis and as far south as New Orleans. I have come here tonight to express concerns regarding the potentially negative

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consequences the Corps actions could have on the various interests and stakeholders along the river.
Having carefully reviewed the range of alternatives proposed by the Corps in the RDEIS, we are concerned that most of the options presented by the Corps have the potential to severely impact commercial and recreational interests along the Mississippi River. It is our conclusion that five of the six proposed alternatives will impair the future of navigation on the Missouri River, dramatically affect the reliability of the Mississippi River, and seriously increase the risk of flooding to residents and farmers.
According to the Corps, all of the proposals, except the Current Water Control Plan, shift water benefits and usage to the Upper Basin Reservoirs in an effort to save water during periods of drought and hold it for future uses. By changing the trigger points that establish length of the navigation season and increasing the level at which water will not be released, the Corps eliminates sustainable navigation and agriculture use on the Missouri River.
The Missouri River accounts for up to 60 percent of the Mississippi River's water volume

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between St. Louis and the mouths of the Ohio River. The Missouri's water is necessary to maintain navigable levels on the Mississippi during the peak shipping months in late summer and autumn. I find it fortuitous that the Corps is holding one of the hearings here in Cape Girardeau since the issues are especially relevant to this community and this part of the river referred to as the "Middle Mississippi." This segment of the river would potentially become an unreliable transportation alternative, land locking the upper Midwest and completely disrupting the ability of commercial interests to maintain operations.
But it is not the only the Middle Mississippi that could be severely impacted. The changed river flows proposed by the Corps also threaten to disrupt or shorten certain navigation seasons and completely eliminate others large segments along BOTH the Missouri and Mississippi Rivers. This would force many river users to consider using other modes of transportation. This would have severe impacts on our environment by putting more trucks on the road and worsening the safety of our nation's highways and roadways. With one modern barge equaling 870 trucks, the impacts

26 (Pages 98 to 101)

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are significant. Additionally, water compelled rates keep the costs of other modes of transportation down. If the 38 million tons of cargo annually shipped by the barges on the Missouri River alone was diverted to rail and truck transport, producers and consumers would suffer an increased burden of $200 million each year.

We also remain very concerned that summary documentation prepared by the Corps for these hearings is misleading, incomplete, or lacks the empirical evidence needed to make the necessary determinations. For example, the Corps presented data averaging impacts over 100 years -- completely eliminating the real market impacts of severe years of loss. A major storm event in any one year could completely drive out of business a number of companies that rely upon the river for commercial navigation.

In our opinion, the Current Water Controlled Plan adequately balances river uses and we would urge the Corps to investigate non-flow alternatives to address the endangered species issues at the center of these changes. There is no evidence to support that these actions will help the species, that other means of creating habitat cannot

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accomplish similar goals, and that sufficient attention has been paid to understanding the real-world impacts of reducing the reliability of our water transportation system.

Thank you for allowing me to voice my concerns on this critically important issue.

(End of submitted testimony.)

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STATE OF MISSOURI)
) ss.
CITY OF ST. LOUIS)

I, DEBRA S. KAESBERG, Registered Professional Reporter, Certified Shorthand Reporter, and Notary Public in and for the City of St. Louis, State of Missouri, do hereby certify that the matters set forth in the Transcript of Hearing are true and correct; and that said hearing was first taken down by me in machine shorthand and thereafter reduced to typewriting by means of computer-aided transcription; and that he foregoing 103 pages comprise a true, complete, and correct transcript of the testimony given and the proceedings held at the taking of said hearing.

Witness my hand and seal this 1st day of February, A.D., 2002.

Debra S. Kaesberg, CSR, RPR
Notary Public

27 (Pages 102 to 104)

Read into Testimony - See pages 4 - 13.

STATEMENT TO THE US ARMY CORPS BY SENATOR BOND ON MISSOURI RIVER MASTER WATER CONTROL MANUAL REVIEW 1/21/02 CAPE G., MISSOURI

"General Fastebend, first, a hearty congratulations on your recent promotion to General. It is a high honor within an institution that Americans are holding in high and well-deserved reverence given the brave and skilled performance in protecting our citizens from terror.

I thank you for this additional hearing and welcome you here today and I am pleased to see so many water users, the Governor, and others here to demonstrate once again our downstream unity. By scheduling four hearings on the Mississippi, it is clear that you understand what the Fish and Wildlife Service and the National Academy of Sciences environmental panel does not understand; that somewhere in the vicinity of St. Louis, the Missouri actually is connect to the Mississippi and you can't "experiment" on the Missouri without "experimenting" on the Mississippi. The environmental panel's desire to "experiment" on the river is a subject I will return to in a moment.

I draw to your attention that President Bush recently visited the Midwest and traveled south to New Orleans to discuss our economy, energy and foreign trade. He spoke specifically about the $1.3 trillion food and fiber industry which employees 24 million people. I am hoping that the President's employees will protect his priorities which are clearly our priorities, particularly during this time of recession. Most understand that trading goods relies on efficient transportation. As much as two-thirds of the water on the Mississippi comes from the Missouri during the summer. Shut off the Missouri, and you shut off the Mississippi.

In summary, I believe that government should protect people from flooding, not cause floods. It should produce more efficient transportation options, not railroad monopolies, and it should encourage power production, not discourage it.

The Fish and Wildlife Service plan fails because the plan's value to fish habitat is dubious while its risk to people is very real.

The environmental panel at the National Academy just released a one-dimensional report that is obviously a good-faith attempt to lay out their view of the world. However, it was disturbing to see them wander away from their specific environmental task into economic matters about which they proved to know very

little. None of the panelists are indicated as transportation experts or economists. Like some others, they operated on the Soviet-era assumption that monopolies are efficient providers of service. Without water there are not boats and there is no longer competition for the rails. Imagine railroads NOT raising their rates without water competition. You can't blame the railroads for wanting to make money just as you can't blame a compass for pointing north. However, as a matter of policy, we should be encouraging competition not monopolies.

Nevertheless, what the Academy is supposed to know much about is river biology and what these experts on river biology concluded is that, "The most significant scientific unknowns in the Missouri River ecosystem are how the ecosystem will respond to management actions designed to improve ecological conditions." They admitted that, "The Committee is keenly aware that the practice of adaptive management is a 'work in progress' and that there is inadequate experience with successful or unsuccessful experiments to comprehensively evaluate the underlying theory." They concluded that without more information, "truly comprehensive assessments of the ecological state of the Missouri River are not possible" and that, "the [Endangered Species Act] in itself is not likely to provide a sufficient basis for marked recovery of the Missouri River ecosystem improvements."

Then, shockingly, to reinforce the fear felt by downstream citizens, and to highlight the un-tested guess-work involved in species recovery, the National Academy report mentions the word "experiment" exactly 40 times in the report. General, medical doctors are neighborly enough to experiment on laboratory rats not U.S. citizens. The Academy often refered to "carefully monitored experiments" and noted that adaptive management should not be seen as fixed policy, "but rather as experiments that can be scaled back if results are disappointing, or enhanced if results are promising."

Clearly what the biologists want to experiment with is flooding. On page 108 they say that "efforts to restore natural physical processes and ecosystems may require occasional high flows from mainstem reservoirs that increase flooding and interfere with agricultural drainage." They want a more natural flow but a natural flow is flooding. They acknowledge in their graph on page 52 that downstream, we already have a natural flow. Folks in Missouri know that to be flooding.

It is very difficult for people in Herman, Missouri to understand why flooding is needed when it is what they already have and why, if flooding is the solution, it hasn't already worked? The "spring rise" we already have is dangerous and it floods rural and urban communities without warning. When it rains in the spring, unregulated tributary flows swell the river from normal to flood stage in hours – as it did in early June – and this is the monster that the Fish and Wildlife Service wants us to experiment with by adding what they call "no more than 3 feet" of water in the spring. We cannot tolerate more flooding.

One final problem with the reconciling the Fish and Wildlife Service plan with the Academy and with reality is that the flows the Service recommends are not natural because they propose artificial low flows in the summer when pre-regulation highwater peaks occured as a result of upstream snow melt.

There are two other suggestions which are important. One, they recommended that "The Corps could not and should not make decisions that ignore its flood damage reduction responsibilities." Bravo! The other recommendation is that, "A moratorium on current efforts to revise the Master Manuel should be enacted."

It is clear that we have been correct all along in suggesting that the dangerous so-called solution demanded by the Fish and Wildlife Service is untested. It is a well-intentioned theory that's value to the acquatic ecosystem is untested and that's risk to people is self evident.

According to the non-political, not-regulatory, scientists at the Department of Interior's USGS, "Currently, decisions regarding water and flood plain management on the Missouri River must be made without the benefit of long-term, in-depth scientific information to document changing conditions on the river."

This week, I am told that the South Dakota House passed a resolution 59-9 objecting to the "extreme high flows" proposed. Seven years ago, the Corps "spring rise" plan was condemned from Omaha to New Orleans by the public. Now add South Dakota.

Everyone should be reminded that it was the Clinton Administration in 1994 who proposed it only to reject it subsequently. It was their Secretary of Agriculture and Secretary of Transportation who vigorously opposed the Corps plan in 1995 representing the views of cabinet-level officials.

Our Governor and Mississippi River Governors wrote to the President earlier this year to communicate their opposition to this plan because of the impacts it will

have on the Mississippi River.

While I would not be surprised to see our Brazilian competitors propose eliminating U.S. water transportation, it is not something one would expect from our own government. Our vacation from history where we can afford to throw people out of work is over. Government should be proposing massive transportation modernization and economic development, not economic surrender and transportation decay. It is inexcusable that we would hear our government propose bankruptcy for an industry anytime and particularly during a recession.

General Fastabend, you and this Administration did not start this mess, but you are left to clean it up. The Corps has bill language approved by Congress in the Energy and Water Appropriations Act for 2002 and signed by the President which states clearly that the Secretary of the Army "may consider and propose alternatives for achieving species recovery other than the alternatives specifically prescribed by the United States Fish and Wildlife Service." It says further that, "the Secretary shall consider the views of other Federal agencies, non-Federal agencies, and individuals to ensure that other congressionally authorized purposes are maintained."

This language means two things: It means the Fish and Wildlife Service does not have a monopoly on this process and it means that the Army must maintain flood control and navigation.

It is clear that there is insufficient scientific, economic, or political foundation that the proposals can rest on. It is clear that using the Endangered Species Act to impose unworkable management options on the people was a very poor strategy. I believe that the agencies must clear the deck, acknowledge the shortcomings of the Biological Opinion and get back together and identify the areas of agreement on habitat restoration and push forward with those immediately. In the end, I believe that the process can and will produce positive initiatives to help fish and I believe that it will do so without selecting an alternative which injures people and property.

I thank the public for being here tonight and I thank the Corps for being available to listen.

OFFICE OF THE GOVERNOR
STATE OF MISSOURI
JEFFERSON CITY
(573) 751-3222
www.gov.state.mo.us

Read into Testimony - See pages 15 - 19.

STATE OF MISSOURI GOVERNOR'S OFFICE
PUBLIC COMMENTS
MISSOURI RIVER HEARING
CAPE GIRARDEAU, MO
JANUARY 21, 2002

Thank you for allowing me to present Governor Holden's remarks regarding the future management of the Missouri and Mississippi Rivers. The Governor regrets that he is unable to attend this evening. Unfortunately, his schedule was necessarily changed to allow him to attend memorial services for Officer Kelly Poynter, a highway patrolman killed in the line of duty last Friday morning.

The Governor believes these hearings are crucial to ensure that the views of all our citizens are taken into account as the Corps' proposes changes with the potential for profound effects on the future not only of Missouri but of this nation. While the Governor spoke at length on his concerns at the Corps hearing in Jefferson City last November; I will take this opportunity to reiterate the main points he made at that time:

1) Missouri strongly opposes any plan that reduces the amount of usable water to downstream states,
2) Missouri rejects any proposals for enhanced spring releases that would have adverse effects on farmers,
3) Missouri firmly opposes any changes that jeopardize the long-term viability of navigation on the Missouri River, and
4) Missouri believes that restoration of the environmental health of the River should be a priority, but there are more reasonable methods for achieving this goal than those proposed in the Revised Draft Environmental Impact Statement (RDEIS).

The decisions made at the end of this process will effect citizens who depend upon the Missouri River for recreation, navigation, agriculture, hydropower, water supply, and fish and wildlife conservation for many years to come. Thus, the Corps is bound to consider every impact of the plans being considered for the river's future management. This has yet to take place, particularly with regard to two absolutely critical areas.

First, we must reiterate our concern regarding the reduction of downstream flow. All five of the new plans proposed in the Revised Draft Environmental Impact Statement shift water to the upper basin reservoirs by promoting substantial cutbacks in reservoir releases with potentially alarming frequency. The resulting decrease in the amount of water available threatens the viability of designated downstream uses such as navigation.

Further, after repeated assurances that the impacts of the proposed Missouri River management alternatives on the Mississippi River would be thoroughly examined, the process is not underway. We would strongly encourage the Corps to complete its examination. To exemplify our concern we would note that, had the Modified Conservation Plan (MCP) outlined in the RDEIS been in place during the past two years, there is a very high probability that the U.S. Coast Guard would have imposed low water restrictions on the Mississippi River during both years. This clearly demonstrates the potential for extremely negative consequences not only on our state but also on that sizeable portion of the midwestern economy that depends on the Mississippi River.

Second, we are concerned that the Corps has not initiated its studies of the impact of future depletions on both the Missouri and Mississippi Rivers under each of the new alternatives under consideration. Last year, the governors of Arkansas, Illinois, Kentucky, Louisiana, Minnesota, Mississippi, Tennessee and Wisconsin joined me in sending a letter to President Bush requesting the depletion analysis. And this past fall, Deputy Assistant Secretary Domonic Izzo responded to the request, stating the depletion analysis would take place. We would encourage the Corps to act on Secretary Izzo's commitment.

Our preliminary analysis shows depletions may well affect the Corps' ability to ensure that the River remains, as we propose, a "River of Many Uses" if any of the five new alternatives are chosen. Given increased demand for water within the basin, the controversial nature of the Master Manual process, the fact that the current Water Control Plan has been in effect for four decades, and the likelihood that any new plan will remain in effect for at least the next forty or fifty years, it is absolutely essential that the Corps thoroughly analyze depletions for the foreseeable future. Failure to do so would not well serve the people of Missouri, and the Midwest, whose lives and livelihood depend on the continued availability of sufficient flow in the Missouri and Mississippi Rivers.

Governor Holden encourages the Corps to implement the National Academy of Sciences' recommendations to reflect the consensus of citizens living in the Missouri River Basin. He challenges the Corps to work to ensure the river is managed to benefit all residents of the basin and to achieve balance among the upstream, downstream and competing uses of the river founded on valid scientific studies. Missouri is committed to improving the environmental health of the Missouri River and ensuring the economic security of its citizens. Governor

Holden strongly encourages the Northwest Division to consider implementing habitat restoration projects similar to those undertaken by the Corps' St. Louis District along the Mississippi River, which have been tremendously effective.

The Corps has been charged with developing a plan that has great potential to impact how we live, work and play. Only through a thorough and open discussion can it achieve the goal of establishing the Missouri as a "River of Many Uses." On behalf of Governor Holden, thank you for your time and the opportunity to make these comments.

Statement of Congresswoman Jo Ann Emerson
Missouri Eighth Congressional District
January 21st, 2002
Cape Girardeau, Missouri

Most of the letter was read into Testimony - See pages 19 - 23.

Additional paragraphs are marked below.

Thank you for this opportunity to share my thoughts and observations with you this evening. Before I begin, I want to thank Senator Kit Bond for his outstanding leadership on this issue. On more than one occasion, it has been Missouri's own Kit Bond who has been the only reason that the man made flooding has not already been implemented - Thank you, Kit Bond.

I am very pleased that the Corps, at the urging of Senator Bond, has decided to hold a hearing here in Southeast Missouri. Many times throughout this debate the focus has been on communities located along the Missouri River and the interests of those who reside near and rely upon the Mississippi often take a backseat. Many of us here this evening know the potential adverse effects that this plan will have on flood control and navigation on the Mississippi and I am taking this opportunity to voice my opposition to the plan.

In an attempt to restore the natural flow of the Missouri River this plan would create increased flows of the river in the spring and decreased flows in the summer. The purported reasoning behind these proposed changes is for the preservation of several endangered and threatened species. Many of those who have been actively involved in this process are at odds over whether this plan will actually help these endangered species at all. However, while the issue of endangered species preservation has been at the heart of this issue, there are several other factors involved in this situation.

Oftentimes, the focus of this debate takes place between interests located from South Dakota to St. Louis. However, the effects of this plan will go much further than that by creating problems for those with interests in the Mississippi River. The Missouri River does not flow directly through my Southern Missouri district, but we are still very reliant on the Missouri River. The Missouri feeds the Mississippi and provides as much as two-thirds of its flow during dry years. Decreasing the flow of the Missouri during these dry years would essentially cripple Mississippi River transportation in my district. Mississippi River transportation is very important to me as well as my constituency and I intend to protect their interests.

The proposed artificial spring rise would have devastating consequences for those who rely on the Mississippi River for their livelihood. As a result of the decreased flow, the agricultural and industrial interests who use the rivers to transport their products will be forced to move their products by rail or highway. The extra cost of transporting goods in this manner will be passed on to the consumer.

Estimates show that shifting traffic from barges to trucks would increase fuel use by 826%, emissions by 709%, and probable accidents by 5,967%. These statistics perfectly illustrate my point that barge transportation is hands down the most efficient, environmentally friendly, and safest means of transporting products.

Another unintended consequence of this plan will be when we flip on the light switch at home. The proposed change in flow will adversely impact electricity production in Missouri. There are several power plants in Missouri that require a sufficient amount of water to generate energy for a significant number of Missourians. The Corps' plan would decrease flows in the summer when energy demand is highest. Without adequate water flow in the Missouri River, we will be confronted with the potential loss of an affordable and reliable energy source.

MoPower 1, 3

We can all remember the devastating and dangerous flooding that has plagued Missouri in recent years. This plan would jeopardize the Corps ability to control the flow of the river and endanger productive farmland. In Missouri, we already have a natural spring rise. When water is released from the Gavin's Point Dam in South Dakota, it takes about one week to get to Kansas City, 11 days to get to St. Louis, and two weeks to get to my hometown of Cape Girardeau. A heavy rain, during an artificial spring rise, could cause the river to spill its bank and destroy homes, businesses, and farmlands. Until we can effectively predict the weather two weeks in advance, any plan calling for an artificial spring rise is not a plan we can accept.

FC 8, 20

Many people have made the mistake of assuming that the two sides of this issue are pro-environment and anti-environment. That is simply not the case. I want to make it abundantly clear that I am not discounting the importance of preserving endangered species and I am not saying that we cannot make any changes to the flow of the Missouri River at all. However, this plan in particular focuses only on endangered species preservation and completely ignores the concerns of all other interests involved. We need to find a balanced plan that serves the needs of all environmental, recreational, and economic interests.

At the end of the day, we must not forget the devastation that past floods have had on people, wildlife, homes, businesses and infrastructure. Entire towns and livelihoods depend upon the Missouri River. Any change must realize the impact to people first and foremost who live, work and recreate along the banks of the river. All other considerations must be secondary....

Thank you.

State Senator David Klindt
Missouri River Master Water Control Manual

Read into Testimony - See pages 23 - 27.

January 21, 2002

It is an honor to be here tonight to represent the constituents of the 12th Senatorial District of the State of Missouri. The 12th Senate District is comprised of 16, mostly rural counties, in the far Northwest corner of our state. Among these 16 counties are Atchison, Holt and Carroll counties which border the Missouri River.

As you might imagine, the rural makeup of the area I represent relies heavily upon the agriculture economy to sustain our economic viability. As a farmer myself, I understand firsthand just how damaging the proposals being discussed for changing the management of the Missouri River would be for our state's economy.

My constituents and I are concerned about several specific components of the proposals being promoted by the U.S. Fish and Wildlife Service and under consideration by the Corps of Engineers.

We in Missouri are opposed to the higher reservoir levels being proposed for the Upper Basin Lakes. Reducing the amount of water provided to the lower basin states like Missouri will have a dramatic negative impact on irrigation, navigation, drinking water systems and electric utility operations.

We in Missouri are opposed to a spring rise that will inevitably result in more flooding, more interior drainage problems, and more risk for those who live and work some of the best farm ground our state has to offer..

These higher river levels will increase the risk to life and limb and increase the risk of millions of dollars in additional flood damage.

We in Missouri are opposed to proposals that would reduce summer river flows creating in effect a split navigation season. This aspect of the proposals would strike a deathblow to river navigation on the Missouri River and throw our state's already troubled transportation system further out of balance.

While some unreasonable environmentalists may argue that ending navigation on the Missouri River is the appropriate environmental policy, I would argue that the opposite is true.

Taking away the environmentally friendly and efficient waterborne system of shipping our products to market would put hundreds, if not thousands of additional trucks on our state's crumbling highways and likewise many more rail cars on our overburdened rail system.

It wasn't too long ago that the rail carriers couldn't meet the demand of a bin busting harvest even when the option of barge transportation was still available to meet this increased demand.

We should be talking about making every effort to improve our navigation system so that the burden on other forms of transportation is lessened, not increased.

One new wrinkle among the Corps' current proposals for changing the operating plan for the Missouri River is the idea of adaptive management. In effect, this new policy would give Federal biologists in conjunction with the Corps cart blanche to change any operating procedures they deem necessary. We in Missouri oppose this idea as well.

As a farmer who has relied upon the land to earn a living, I am committed to maintaining a healthy environment and conserving the natural resources that surround us. I am supportive of efforts to restore native habitat for species in need of assistance, but there has to be some common sense in place when making decisions that place men, women, and children and their livelihoods in jeopardy.

Soon, our state and our nation will be celebrating the 200th anniversary of the Corps of Discovery.

Let's use this occasion to remember that there was one overriding mission and purpose set forth by President Thomas Jefferson for Captain Meriwether Lewis and his Corps of Discovery.

President Jefferson's primary concern was the discovery of whether there existed an all-water route from the Mississippi River to the Pacific Ocean for the future development of commerce and trade in America's new territory to the west.

Well ladies and gentlemen, I am happy to report nearly 200 years later that while an all-water route may not exist all the way to the Pacific Ocean, we have enjoyed the use of a viable all-water route from the Gulf of Mexico all the way to ports in the states of Nebraska and Iowa for decades.

To implement any of the proposals which would do away with this vital national resource would fly in the face of long-standing United States policy in place since President Thomas Jefferson's orders delivered to Captain Meriwether Lewis nearly two centuries ago.

I implore the U.S. Army Corps of Engineers to let history be their guide as they decide whether President Jefferson's priorities are still worth following today.

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Read into Testimony - See pages 27 - 31.

Public Meeting on the Revised Draft Environmental Impact Statement
for the Missouri River Master Water Control Manual
Cape Girardeau, Missouri
Statement of Charles E. Kruse
President, Missouri Farm Bureau
January 21, 2002

Good evening General Fastabend. My name is Charles Kruse. I own and operate a family farm in Stoddard County—about an hour southwest of Cape Girardeau. I also serve as President of Missouri Farm Bureau, the state's largest general farm organization.

First, as a fellow General Officer, I want to congratulate you on your recent promotion to the rank of Brigadier General. This is indeed quite an accomplishment.

Second, I want to recognize the leadership of our senior United States Senator--Kit Bond. Management of the Missouri River has been an issue since his very first days in the Senate. He has led our state's effort and we can't thank him enough for his dedication and perseverance. By now you know, Kit Bond is a fighter and simply will not give up. We are truly fortunate to have him on our side.

It should be noted that Congresswoman Jo Ann Emerson has also been a vocal opponent of the proposed management changes. She too has gone out of her way to inform her colleagues about the flaws in the various flow options.

For the record, both Missouri and our national organization, the American Farm Bureau, strongly oppose the flow changes now being considered. While we remain hopeful that a balance can be achieved, with the exception of the current plan, none of the current options are acceptable.

Like the movie Groundhog Day, flow change proposals never seem to change. In fact, I gave the following remarks at a public hearing on the Corps' Preferred Alternative in October 1994:

> *"To farmers, the detrimental impacts of the plan appear obvious and very immediate while some of the stated environmental goals and objectives appear far more vague and harder to verify. We fear that plans such as the Corps' preferred alternative fail to adequately consider the human population and only serve to further undermine public support for reasonable efforts to protect fish and wildlife."*

Today, seven years later, we find ourselves facing the same alternatives and our position has not changed.

Unfortunately, what started out as a debate about drought management has evolved into a referendum on the Endangered Species Act, an attempt to expand significantly the Missouri River mitigation program and an all-out assault on river commerce.

The U.S. Fish and Wildlife Service cites the Endangered Species Act as the reason for their rigid position. According to them there is but one very prescriptive way to avoid a jeopardy opinion. From where we sit, that is hard to believe.

We appreciate the opportunity to extol this evening on the ways that management changes on the Missouri River could impact the Mississippi River. General, you will hear many important facts about the relationship between the two rivers. There are two points that I hope will become evident. First, during drought conditions, Missouri River flows are important to Mississippi River commerce. And second, we should recognize that if the U.S. Fish and Wildlife Service is successful in dictating flows on the Missouri—the Mississippi River might very well be next. The birds and fish may be different but the issues will be the same.

We have members that farm in every county that borders the Missouri and Mississippi Rivers in our state. They continue to struggle with extremely low commodity prices and rising input costs. In fact, the federal government has had to step in for four consecutive years with emergency economic assistance.

The Bush Administration has indicated that we must be more involved in global markets. In other words, we need to be more competitive.

If that's the case, shouldn't we be doing everything possible to enhance river commerce…not only on the Missouri but other rivers such as the Mississippi?

Shouldn't we be making every effort to decrease the risk of flooding in the fertile bottoms? Our farmers already know the impact of higher flows in the spring. The fact is, we already have a spring rise and don't need to be part of a contemporary science experiment or the 10-year pilot program being proposed by the Missouri River Basin Association.

It makes no sense to force farmers and rural communities to participate in a risky scheme that may, or may not, increase populations of three species.

In closing, General, we are not opposed to any change. We believe there are alternatives that could enhance aquatic habitat without major system modifications, without massive new land acquisition programs, without significant increases in energy costs, without controlled flooding and without jeopardizing river commerce. For these reasons, we have no choice but to strongly oppose the alternatives currently under consideration.

Thank you.

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Read into Testimony - See pages 32 - 36.

January 21, 2002

Oral Testimony:
Cape Girardeau, MO Public Hearing
Revised Draft Environmental Impact Statement
Missouri River Master Water Control Manual
United States Army Corps of Engineers
Northwest Division

Good evening. My name is Randy Asbury and I'm Executive Director of the Coalition to Protect the Missouri River. This coalition represents a diverse group of thirty agricultural, navigational, utility, industrial and business-related entities all of which are, or represent, Missouri River stakeholders. We support responsible management of Missouri River resources and the maintenance of congressionally authorized purposes of the river including flood control and navigation. We also support habitat restoration for endangered or threatened species.

Floodplain farmers till some of the most productive land in the world. They also face natural risks of flooding and inland drainage problems. Too much moisture is as detrimental to crop production as too little moisture. For this reason, we are greatly concerned with the spring rise alternatives. Man-made river flows that will increase the risk of flooding or inland drainage problems along the Missouri or its tributaries are unacceptable. In today's difficult agricultural economy, farmers can't withstand man-made events that compound the natural risk inherently a part of farming.

The latitude given the Corps by the adaptive management feature creates the realization that Lower Basin states must prepare for the eventuality of the highest spring rise… 20,000 cubic feet per second released from Gavins Point. This increased flow is recommended to scour vegetation from sandbars to increase nesting habitat for terns and plovers and as a spawning cue for the pallid sturgeon. Corps' analysis shows a net habitat gain of 37.4 acres below Gavins Point will occur by increasing river flows to 20,000 cubic feet per second over CWCP releases and reducing summer flows to 21,000.

The Missouri River watershed drains one-sixth of the United States over an eight state area and the river itself is 2,341 miles long yet the net result of an additional 37 acres of sandbar is ridiculous.

The GP1528 flow currently being tossed around by MRBA is not feasible for navigation because channel changes resulting from the 93' flood have altered them to the detriment of navigation effectiveness. What were once minimum service level flows before 93' are no longer minimum service levels today. Approximately 100 dikes destroyed by the 93' flood have never been repaired. This eliminates GP1528 as a viable flow option since flows at or below minimum navigation levels are not economically justifiable.

GP flows below minimum navigation will cause navigation to cease altogether on the Missouri River. It must be understood that navigators can't withstand a reduction of 72 days or 30% of their operating season year after year and be expected to remain economically viable. No one would expect any business to reduce their season by 30% and continue operations in a practical way. This would be like asking Wal-Mart to shut down from September 14 to December 31.

Summer flows reduced to below minimum navigation levels on the Missouri River will also negatively impact flow support to the Mississippi River. The MCP alternative decreases flow support to the Mississippi 40 out of 100 years. Missouri DNR analysis indicates that 75 percent of the time or 30 out of 40 years, these cutbacks in flow coincide with low water on the Mississippi. The current water control plan decreases flow support 9 percent of the time and coincides with low water on the Mississippi about 78 percent of the time. Flow reliability contributed to the Mississippi by the Missouri is undoubtedly greater with the current water control plan than with any other. A GP20 option would also result in a Mississippi River rise at Cape Girardeau of approximately one foot when the river is near flood stage.

The National Academy of Science report confirms the concerns I and other groups have conveyed tonight and during the past 4 ½ months. They recognize that relocation of

people and businesses along the floodplain will have a monetary and psychological cost. Additionally, agricultural flooding and inland drainage problems will occur to reconnect the river to the floodplain. And although they've stated they've not called for the demise of navigation most everything they've called for would bring the flow reliability needed for river commerce to an end.

Insomuch as this would be the case, the question now before us is – Does society want the Missouri River to be managed solely for conservation purposes or does it want to maintain all congressionally authorized purposes? We contend society wants a multi-use river. With that in mind, any decisions made on future management of the river must take into account the costs to all interests ~~and discontinue~~ in addition to the one-dimensional focus on conservation that has defined this process to date.

J-Mar
Agri Group

FAX: 573-649-5786
e-mail: jmarag@ldd.net

573-649-5221
202 E. CHESTNUT
EAST PRAIRIE, MISSOURI 63845

Read into Testimony - See pages 36 - 39.

January 21, 2002

Brigadier General David Fastabend
NorthWest Division Commander
US Army Corps of Engineers
12565 West Center Road
Omaha, NE 68144-3869

Dear Brigadier General Fastabend:

I once knew a rich man. He didn't start life that way; he grew up as the son of an immigrant from Europe. He had no silver platter or large inheritance. What he got he worked for. His dreams were large, motivated by the desire to build the American dream. He married a good girl and started a family. As time passed he built a very successful business. Paying attention to detail and working hard, he achieved the good life. As his family grew, he wanted to give his son the things that he was never afforded as a young boy. The yearly vacations to the beach and trips snow skiing. The son always got the presents that he desired on birthdays and Christmas. Upon turning 16 there was a new sports car in the driveway. When college came, it was only the best schools. He attempted to overlook the problem with speeding tickets and underage possession of alcohol. Grades became a problem that resulted in just quitting college. His son had a hard time just really deciding what he wanted to do with his life. The vision that his father had was not the same in the son. The son was not really into work, but upon the insistence of his father he started to work in the family business. A few years later the boy's father passed away, leaving a very successful business to his son. The boy thought he had it made. Enough money to build a large house where he would hold lavish parties. Fast cars and girls too many to remember. Some days he wouldn't even go to work. Lacking the focus and not paying attention to detail, soon the company lost customers and found itself in financial problems. The son decided to sell out to a competitor and take what money was left to play with. Soon the son found himself flat broke. He ended his life the way his grandfather had begun his when he came to America. No money, no job and not even a family that would have afforded him a son.

What does this have to do with a river? I could have given a dissertation explaining the value or lack of value of birds and mussels. I could have talked about DEIS bring flawed or inadequate, preferred alternatives or not so preferred alternatives. But this completely misses the bigger question, and in my opinion the more important question.

Have we lost our focus? Our forefathers worked hard to build this nation. They had a vision of a better life and instilled this in their children. But in the process we became wealthy, we succeeded in our endeavors. Life has become a little too good. As a result, we are not investing in our

infrastructure and building our nation. Don't worry, there are other countries out there with the hunger to succeed and we are in competition with them. They want a better standard of living and we want recreation. We are remembered by what we do in life; let us not be remembered as the ones that lost our vision. Our efforts should be focused on newer ports, larger locks and dams and stronger levees.

We do live better than our fathers. Their hard work has made us the strongest and wealthiest nation on Earth. Let us not lose our vision and focus and be remembered as the son that lost the business.

Sincerely,

Joe Sorrells

LUHR BROS., INC.
CONTRACTORS
Heavy Construction & Marine Services
PO Box 50 Columbia, Illinois 62236-0050
Phone (618) 281-4106
FAX (618) 281-4288

Read into Testimony - See pages 39 - 44.

Testimony of Alois Luhr
Chairman, Luhr Bros., Inc.
On
Missouri River Revised Draft Environmental Impact Statement
Cape Girardeau, MO
January 21, 2002

General Fastabend, my name is Alois Luhr, I am Chairman of Luhr Bros., Inc. ***We have been in business for over 55 years*** as a River Marine Contractor and Inland River Tower. We perform channel maintenance and river construction on the Inland Rivers of the United States, including the ***Missouri and Upper and Lower Mississippi Rivers***. We employ in excess of ***500 full time employees***.

Our River Contracting and Dredging Division owns and ***operates in excess of 60 special application service vessels***, including hydraulic cutter-head dredges with attending plants and crane, dragline and backhoe spud barges. We perform channel maintenance and river bank erosion prevention work.

Our River Towing Division owns and ***operates in excess of 30 towboats*** of various size and horsepower, ***and in excess of 300 cargo barges***, towing product from our sister company's open-pit limestone quarries in Missouri, ***via the Inland River System***, to interstate points North and South.

Our sister company, Tower Rock Stone Company operates 2 limestone quarries and produces in excess of 8 million tons of product annually, all of which is transported by barge on the Inland River System of the United States, including the Missouri and Upper and Lower Mississippi Rivers.

I am very concerned with the documentation presented to the public today for many reasons. First, we believe that the importance of navigation is minimized through the use

of a formula that does not deliver to the public the importance of water-compelled rates to the economic structure. ***For example, shippers in the basin save anywhere from $75 - $200 million because of competition between rail and water, benefits that will be lost under the GP proposals.*** If recreation on the Upper Basin were valued in the same fashion as navigation on the lower part of the system, the benefits to the nation would be minimal.

Second, the documentation impacting the Mississippi River that is presented to the public is incomplete and flawed. Assumptions made as to the ability of traffic volumes to stay on the river in face of rising costs and declining availability of water is in error, resulting in misleading and greatly undervalued impacts. In addition, the documentation that is presented fails to follow the basic statistical practice of eliminating outlier years that, when excluded, totally alter the results of the impact analysis as to contradict those presented. ***For example, if you subtract 1939 data from the calculations, the impacts on Mississippi River traffic increase, rather than decline.***

Third, the analysis evaluating increased dredging needs and the low water reference point on which the structures in the middle Mississippi are based is a far more complex and critical issue that must be fully assessed and presented to the public prior to taking action. ***For example, the river training structures and the way we built the channel south of St. Louis expects that a certain amount of water will come from the Missouri River. Less water in lower-water years will cause navigation traffic impacts that are not sufficiently considered in the impact analysis. Tows will have to be shortened sooner or draft reduced more than your analysis suggests. We know that 40-60% of the water that flows in the Middle Mississippi during low water years comes from the Missouri River. Holding water back would further harm the reliability of Mississippi River navigation which provides over $2 Billion of benefits to the nation, according to the Mississippi River Commission.***

Fourth, the concept of operating a river for navigation support and adaptive management are contradictory unless certain parameters are placed on the process that assures a bottom line support for navigation. Specifically, if adaptive management ***(reducing water or taking down levees)*** will cause the level of support for navigation to fluctuate annually, it will be impossible for shippers to develop long-term contracts for the movement of cargo, thus substantially adversely affecting the region's competitiveness.

From our perspective, the National Academy of Sciences (NAS) report confirms our greatest fear—that the U.S. Fish and Wildlife Service wishes to turn the Missouri River into as giant test tube. The difference between the NAS' confirmation that certain features (more natural flow, floodplain connectivity, etc.) are the best theory we have regarding restoring the ecosystem, and the USF&WS, is that the NAS admits that we really don't know for sure whether this experiment will work and that people and economic activity will suffer.

We agree that it is time to put a moratorium on changes to the Master Manual. We also call on the U.S. Fish and Wildlife Service to withdraw the Biological Opinion in light of the NAS Review and present a more honest appraisal of what is known and unknown about the science of endangered species, rather than a single ***specific alternative*** that does not allow for the consideration of alternatives that do not adversely affect other uses. Congress never intended for fish to be more important than people's lives and livelihoods.

The flood control benefits of this system are critical to this region. Navigation benefits provide our nation with greater competitive advantages. The recreation benefits south of Gavins Point will also be adversely affected by the proposals other than the Current Water Control Manual. In fact, the more we review alternatives, the more it is apparent that the Current Water Control Manual is a strong basis for continued multiple uses of the river.

Thank you for your consideration.

Alois Luhr

Luhr Bros., Inc.
Alois Luhr – Chairman of the Board/CEO

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THE LITTLE RIVER DRAINAGE DISTRICT

FLOOD CONTROL & DRAINAGE
SINCE — 1907

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Blytheville, AR

Read as Testimony - See pages 44 - 49.

STATEMENT OF
THE LITTLE RIVER DRAINAGE DISTRICT
CAPE GIRARDEAU, MISSOURI
JANUARY 21, 2002

U. S. Army Corps of Engineers
Northwest Division
Attention: Missouri River Master Manual RDEIS
12565 West Center Road
Omaha, Nebraska 68144-3869

Gentlemen:

My name is Larry D. Dowdy, Executive Vice President of The Little River Drainage District headquartered in Cape Girardeau, Missouri. Our District is the largest drainage and levee District of its kind in the nation. We are involved in the movement of surface runoff of two (2) million acres of farmland and upland runoff each year. We are a totally tax financed organization. Highest Stage ~~ever~~ OF RECORD AT CAPE GIRARDEAU OCCURRED IN 1993 DURING OUR SUMMER MONTHS

We appeared before you in St. Louis, Missouri on November 13, 2001 and presented oral testimony as well as a written statement. After that hearing our views of any changes on the Missouri River Master Manual has not changed. If anything, after listening to approximately fifty (50) other presenters at that hearing we are more determined and more convinced the plan that is currently being followed needs to be left alone and adhered to closely.

Even though there has been fourteen (14) other public hearings on this matter over the last few months we are thankful that Senator Bond from the State of Missouri was successful in getting a hearing in this part of our state. Senator Bond is a strong advocate in support of the current operation manual and we applaud him for continuing to fight against the environmentalists who are trying to make changes for the benefit of two (2) birds and a fish.

As I mentioned in my statement on November 13, 2001 I wish a good friend of mine who is a retired river boat captain namely, Mr. Reese Sanders, who lives here in Cape Girardeau could have been persuaded to appear before a hearing of this nature and to make some of the statements he has made to me. Mr. Sanders is in attendance at this hearing tonight but I am still not able to persuade him to speak publicly. So my statement to you tonight is to reinterate our support of my prior statement and to give you some information that Mr. Sanders was kind enough to share with me a few days ago.

1440 KURRE LANE • P.O. BOX 159 • CAPE GIRARDEAU, MO 63702-0159 • PHONE 573-335-3439 • FAX 573-335-4895

Mr. Sanders began working as a river boat captain on the Missouri River in 1935 with a contractor named Woods Brothers which had a contract to construct dikes on a project known as the Indian Cave job near Falls City, Nebraska. The cost of that contract was approximately $1,000,000.

Mr. Sanders told me there was never a straightening of the Missouri River but only a modification of some of the curves in the river by making the curves more gentle and easier for the barges and the tow boats to maneuver as they traversed up and down the river. Mr. Sanders has been through almost all of the locks on the upper Mississippi River which as he stated are some sixty (60) to seventy (70) years old which the design was for only fifty (50) years life. He stated these locks are too short, too old, and need to be modernized which if we started today it would take more than twenty (20) years to complete.

Mr. Sanders further told me before the Corps of Engineers began taking control of the Missouri River and improving the river it was filled with buoys in order for the tow boat captains to not run their tows aground. Today he says because of the work the Corps has done there are very few buoys that are needed because of the efforts the Corps has put forth.

Mr. Sanders is 88 years old and has a good perception of what is taking place with the efforts of the so called "environmentalists" who want to make changes. He said it is nothing more than a scheme to remove navigation on the Missouri River. He further stated a TRUE environmentalist would be in favor of any plan or any project that promotes cleaner air, safer travel, and more efficient transportation of goods throughout our nation. The barge industry is that mode of transportation. It is cleaner , it is safer, and it is much more efficient.

After listening to the many others who testified at the November 2001 hearing, I am more convinced than ever that to make the changes that some are wanting to make on the Missouri River will do away with much of our hydroelectric energy, it will have a great negative impact on water supplies for many of our municipalities, and it will increase the truck transportation in the state of Missouri enormously. In fact, I believe Chris Bresca, Marc 2000 quoted numbers in the neighborhood of 395,000 more tractor trailer trucks on the highways of Missouri if the barge industry on the Missouri River disappears.

Of the fifty (50) plus who appeared in St. Louis only ten percent (10%) spoke in favor of any changes. Surely the U. S. Army Corps of Engineers, who has the authority to maintain the Missouri River in the manner you are maintaining it, can perceive local interest and those effected by those changes, do not want those changes. Ninety (90) percent of the people who presented testimony at St. Louis has said to you time and time again we only support the current operation of the Missouri River. What causes the Corps to continually listen and seek to make changes when the populous in a large majority are saying "leave it alone"?

Again thank you for your time. I would encourage you to visit informerly with Mr. Sanders who is in our audience tonight. I would like to ask him to stand so he can be recognized by you and all of the others. I will conclude my remarks with a couple of

statements that Mr. Sanders made to me on more than one (1) occasion. He said I do not think the environmentalists truly knows how much better and how much nicer the Missouri River is than before the U. S. Army Corps of Engineers began working on it to make the improvements which they have made. He further stated there is much more that could be done and should be done on the Missouri River to make it a more desirable asset to our nation. Mr. Sanders also stated the best thing that ever happened to the Missouri River was the U. S. Army Corps of Engineers.

Thank you very much for your time and your kind attention.

Yours,

Larry D. Dowdy

MIDWEST CEMENT COMPANY, INC.
P.O. Box 104960
Jefferson City, Missouri 65110
573-635-2255

Read into Testimony - See pages 49 - 51.

January 21, 2002

Corps of Engineers
Northwestern Division

Midwest Cement Company and Jefferson City River Terminal load barges with cement at Hannibal and Clarksville, Missouri and tow the barges to Jefferson City, Missouri on the Missouri River. The cement is unloaded to silos where it is stored and then hauled by truck to the ready-mix plants wherever it is needed in Central Missouri.

Pre-fab concrete, transformers, steel coils and grain are sometimes loaded or unloaded at this terminal at Jefferson City, MO.

We need a minimum of an 8-month navigation season to get products in and out of Jefferson City.

We are opposed to a split navigation season and ask you to continue the present plan for navigation and flood control.

We hear about the birds, the least tern and piping plover and a fish called the pallid sturgeon. If there has been a decline in their population how many years have been involved – 100 years, 200 years, 500 years or more? Maybe the Corps of Engineers Management is not the problem. Since the U.S. Fish and Wildlife Service claim to know what these birds and fish need would it really take a 2000 mile stretch of river to accomplish it? Could it be done with habitat and surroundings close by and build the habitat that may be needed and build some hatcheries for the pallid sturgeon and then release these sturgeon in some locations in the river?

Midwest Cement Company and Jefferson City River Terminal believe there are things that can be done to increase the population of these birds and fish.

We ask that the companies involved in navigation and the family farmer not be put on the endangered species list when considering the split season.

Thank You,
Robert Cox
Robert Cox

Midwest Cement Company
Jefferson City River Terminal

Read into Testimony - See pages 51 - 57.

Testimony of Christopher J. Brescia
President, Midwest Area River Coalition 2000
Missouri River RDEIS Public Hearing
Cape Girardeau, Missouri
January 21, 2002

Good Evening General Fastabend. My name is Chris Brescia and I am here representing MARC 2000. It is a pleasure to visit with you once again. In previous public meetings we had the opportunity to focus on navigation and flood control impacts. Today, I would like to focus on the Biological Opinion, which forms the basis for the alternatives proposed and the implications of the National Academy of Sciences' report recently released.

At a previous public meeting, Mike Olson from the U.S. Fish and Wildlife Services stated that he was waiting for evidence critiquing the Biological Opinion, but that he had heard none. Perhaps he missed my statement at the St. Louis public hearing when I submitted, for the record, our critique of the Biological opinion and in the Year 2000 we submitted those comments formally. To this date, neither the Corps of Engineers or the U.S. Fish and Wildlife Service has made a single response to the review prepared by a team of biologists and endangered species specialists who were retained to comment.

Recently, the NAS report recommended a moratorium on changes to the Master Manual. We agree with that suggestion, but perhaps for a different reason. We believe that the extra time should be taken to review the Biological Opinion in light of the NAS report's clear and honest appraisal of the state of scientific knowledge.

1

Our critique of the USF&WS' Biological Opinion found the following concerns:

1. Under the Freedom of Information Act, we requested documentation for a range of sources quoted by the Service. An entire category of references, all 44 of them, were not available. In other words, the Service could not provide us with anything to substantiate these sources.
2. The Service ignores the possibility that alternatives less drastic than altering the flows of the Missouri River could improve the status of listed species. Even Congress felt compelled by a vote of 100-0 to provide guidance allowing for other alternatives to the considered. There is no meaningful analysis showing that specific measures will improve populations of the endangered species. We now know from the NAS that the reason for this is that the scientific evidence simply doesn't exist yet.
3. The Service based some of its decisions on data that they themselves admit are not reliable. "Current wintering areas of the interior least tern remain unknown," yet we have far reaching conclusions that changes to the Missouri River are required.
4. The Service's own data contradicts some of their own conclusions. While least tern populations have met recovery goals, the Service concludes that subpopulation numbers are lacking—reasoning that defies their own recovery documents.
5. The Service has chosen to ignore other means of improving populations of the species concerned. They seem to ignore the fact that a host of measures, including habitat conservation and enhancement, predator control, etc. could be responsible for achieving population increases in least terns. They have also chosen to ignore the possibility that pollution and contaminant uptake are responsible for impacting the population of least terns, when their own data documents that 81% of their sampling exceeded levels considered safe

for avian reproductive success. A similar situation exists for piping plover eggs collected.

6. With respect to pallid sturgeon recovery, the Service is prepared to force a disruption of many river-based commercial activities of great economic importance, but does not appear to be concerned with enforcing existing laws forbidding unlawful take of sturgeon by sport and commercial fishers. In this case also, there is still significant debate over whether the pallid sturgeon and the shovelnose sturgeon are indeed separate and different species.

These and many more inconsistencies simply confirm what the NAS report concludes. Essentially, they may have great ideas and theory on what may work, but they lack the critical scientifically-accepted empirical evidence suggesting that returning natural flows (euphemism for spring rise and split season), reconnecting the floodplain (taking down levees), elimination of cut-and-fill alluviations (creating a navigation channel), losses of natural riparian vegetation (now farmland), introduction of non-native species (Walleye in reservoirs) will actually work to help these species.

What our analysis does show is that the Service has done a poor job of scientifically evaluating what's wrong with the species—in fact we don't have identification of critical habitat for two of the species more than 7-10 years after listing them. Better scientific information should be collected within parameters that allow other uses of the Missouri River to flourish before taking management actions that would disrupt the lives of everyone in the lower basin are even considered.

Oral Testimony: Public Hearing
Revised Draft Environmental Impact Statement
Missouri River Master Water Control Manual
United States Army Corps of Engineers
Northwest Division

Good evening. My name is Mike Geske . I am an agricultural producer from Matthews , MO, a small town in the bootheel. I am here tonight representing the Missouri Corn Growers Association, a grassroots organization representing corn growers across Missouri. I currently serve on the Board of Directors of that organization.

MCGA supports the current water control plan because it is the only feasible alternative presented by the Corps of Engineers. All of the proposed alternatives would be devastating for agriculture.

We are opposed to increasing reservoir levels in the upper basin lakes. Higher reservoir levels reduce the flood control available to the lower basin. Managing the Missouri River flow based on the needs of upstream recreational and other interests goes against the original intent of Congress to manage the river for multiple interests including flood control and navigation. FC 13

We are opposed to the planned "spring rise". Increasing water releases would flood or inhibit drainage on thousands of acres in the Missouri River bottoms. This proposed "controlled flood" could be devastating not only for the potential massive FC 8

Finally, a few comments on the NAS study:

1. NAS confirmed that we don't have fundamental scientific information, cast within a system-wide perspective;
2. NAS confirmed that "the most scientific unknowns in the Missouri River ecosystems are how the ecosystem will respond to management actions designed to improve ecological conditions;
3. NAS believes we should proceed slowly in a collaborative process that has clear goals and desired outcomes, so that progress toward desired future conditions can be assured. We need a better understanding of critical habitat needs before we can proceed this way.
4. NAS says that even though Adaptive Management may be the best idea we have so far, there is " inadequate experience with successful or unsuccessful experiments to comprehensively evaluate the underlying theory." In plain English, that's "we don't know if this will work."
5. Finally, the NAS says we have to consider our ecosystem goals in tandem with other management goals in the entire MO River System. That belies the Service's approach of "species at any cost."

Thank you for the opportunity to address these specific points at today's hearing.

4

flooding it could create, but also for the delayed plantings due to internal drainage problems.

It is also proposed that these increased spring flows would be offset in the late summer by decreased flows, and a required split navigation season. During July through September, water releases would fall below levels needed to maintain navigation. This would end navigation on the Missouri River.

Nav 12

The Missouri River is a major source of water for the Mississippi River. During the drought of 1988, Missouri River discharges accounted for 63% of the water flowing past St. Louis from July through October. If planned flow reductions by the Corps coincides with another summer drought, navigation on the Upper Mississippi would be interrupted. Navigation on this River system supports more than 400,000 jobs and over $1.5 billion of corn is shipped down the river on barges. Farmers depend on river transportation for their livelihood and the U.S. depends on us for exports and trade.

Miss 4

Barge transportation places competitive pressure on regional rail rates. Areas throughout the country that do not have access to barge transportation have higher rail rates. In the Corps' own analysis, they estimate that barge competition reduces rail rates in the Missouri Basin by up to $200 million annually. The importance of this barge competition is dramatically increasing as the rail industry continues to consolidate.

Nav 8, 6

We are also concerned about the new plan referred to as "adaptive management". Through this proposed plan, the Corps would be given considerable power to make flow release adjustments. These adjustments would be made based on consideration of one interest, the endangered species. If it is determined by the government agencies that it is needed for the sake of the species, the highest spring rise and lowest summer flows could be implemented. We cannot assume that any other alternative would be proposed or accepted by the Fish and Wildlife Service. They have single mindedly ***always*** proposed a spring rise and split navigation season as the ***only*** alternative that would benefit the species. They have not proposed any other reasonable or prudent alternative.

Other 3, 10

MCGA is concerned that adaptive management will result in the loss of the public's ability to be involved in the decisions involving flow management for the Missouri River. It does not follow the law provided by the National Environmental Protection Act (NEPA) which allows for public input. The Corps would be assuming power not given to it by Congress.

Recently, a study was released from the National Academy of Science regarding management of the Missouri River. NAS did acknowledge that the issue is not within its purview but rather a public policy matter. The NAS study confirmed that there is insufficient science substantiating the spring rise proposal. NAS states there are some theories for how to improve conditions, but recognized that a moratorium is needed on any management changes until more is known about what needs to be done. The NAS study confirms the worst of what we have been saying about the spring rise - that it would cause flooding and move communities along the river.

EnSp 4

In summary, a spring rise is unwarranted and unscientific. It threatens farms and towns with increased risks of flooding and financial losses through reduced internal drainage. The reduced summer flows would end navigation on the

Missouri and threaten barge traffic on the Mississippi river. There are other non-flow alternatives. MCGA supports non-flow species habitat restoration alternatives as a method of addressing species concerns.

Thus, MCGA supports the current water control plan. We recommend that the Corps keep the water plan now in operation!

Thank You

Read into Testimony - See pages 67 - 72.

STATEMENT

GEORGE C. GRUGETT

EXECUTIVE VICE PRESIDENT

MISSISSIPPI VALLEY FLOOD CONTROL ASSOCIATION

PUBLIC HEARING---CAPE GIRARDEAU, MISSOURI JANUARY 21, 2002

GOOD EVENING !!!!!!!

MY NAME IS GEORGE GRUGETT AND I AM THE EXECUTIVE VICE PRESIDENT OF THE MISSISSIPPI VALLEY FLOOD CONTROL ASSOCIATION WHICH IS AN AGENCY THROUGH WHICH ALL THE PEOPLE OF THE MISSISSIPPI RIVER VALLEY MAY SPEAK AND ACT JOINTLY ON ALL FLOOD CONTROL, NAVIGATION, BANK STABILIZATION AND MAJOR DRAINAGE PROBLEMS. THE ASSOCIATION MEMBERS ARE FOR THE MOST PART ELECTED OFFICIALS FROM THE LEVEE BOARDS, DRAINAGE DISTRICTS, HARBOR AND PORT COMMISSIONS, STATES, CITIES AND TOWNS AND ALL OTHER

1

AGENCIES AND INDIVIDUALS ALONG THE MISS. RIVER & ITS TRIBS. THAT SHARE OUR COMMON CONCERNS AND PROBLEMS.

THE OFFICERS OF THE ASSOCIATION ARE:

PRESIDENT----CONGRESSMAN MARION BERRY FROM ARKANSAS

VICE PRESIDENTS --- SENATOR MARY LANDREAU FROM LOUISIANA AND CONGRESSMAN LEONARD BOSWELL FROM IOWA.

AND I MENTIONED EARLIER I AM THE EXECUTIVE VICE PRESIDENT.

I HAVE SURVIVED THE GREAT DEPRESSION, COMBAT DURING WORLD WAR 11, SEVERAL ATTEMPTS TO EDUCATE ME A TOUR OF DUTY IN WASHINGTON, D.C. BACK WHEN THERE WAS ONLY ONE BUILDING AT NATIONAL AIRPORT, THE ONE THAT THE CORPS OF ENGINEERS BUILT WHEN THEY WERE THE PREMIER BUILDERS IN THIS NATION.

2

I LIVED AND WORKED IN ALASKA BEFORE IT BECAME A STATE. I'VE VISITED ALL THE CONTINENTS EXCEPT FOR AUSTRALIA AND ANTARCTICA, I FOUGHT MY FIRST FLOOD ON THE MISSISSIPPI RIVER IN 1950, ON THE MISSOURI RIVER IN 1952 AND ON THE KUSKOKWIM IN 1957. I'VE BEEN TO TWO WORLD FAIRS, FOUR RODEOS, SHOOK HANDS WITH AND SPOKE WITH BOTH POPE PIUS AND ELVIS PRESLEY, BEEN TO THREE NATIONAL SECURITY SEMINARS AT THE ARMY WAR COLLAGE AND THIS IS MY FOURTH PUBLIC HEARING TO DISCUSS THE OPERATIONAL PLAN FOR THE MISSOURI RIVER.

I'VE THOUGHT THAT AT SOME TIME BEFORE THE DEVIL SENDS FOR ME I MIGHT WRITE MY MEMOIRS AND DRIVING HERE TODAY FROM MEMPHIS I THOUGHT OF A TITLE FOR THAT BOOK THAT I MAY NEVER GET TO.. IF I DO I THINK I SHALL NAME IT "SILLY MEETINGS OR HOW TO WASTE TIME AND MONEY" THIS THING OF CHANGING THE MASTER PLAN FOR THE MISSOURI RIVER HAS BEEN GOING ON FOR SOME 12 YEARS, A CHILD THAT WAS STARTING SCHOOL

3

WHEN THIS FIRST STARTED IS NOW READY TO GO TO COLLEGE, HOW CAN WE USE OUR TIME LIKE THIS?

ALL OF THE MEETINGS ON THIS SUBJECT THAT I HAVE ATTENDED HAVE BEEN FILLED WITH PEOPLE SPEAKING IN STRONG OPPOSITION TO ANY CHANGE IN THE PRESENT OPERATIONAL PLAN FOR THE MISSOURI RIVER. I'VE HEARD ALL THE FIGURES CONCERNING DAMAGES TO BOTH THE ECONOMY AND THE ENVIRONMENT, ABOUT HOW TO REPLACE A 40 BARGE TOW WOULD REQUIRE A TRAIN OVER SEVEN MILES LONG, THINK ABOUT SITTING AT A RAILROAD CROSSING FOR THAT DUDE TO PASS. HOW IT WOULD TAKE 2,300 TRUCKS STRETCHING OVER 90 MILES, WHO IN HIS OR HER RIGHT MIND WANTS TO SEE MORE 18-WHEELERS ON THE HIGHWAYS? ALL THESE FIGURES MUST BE CORRECT AND THEIR ACCURACY I'M SURE CAN BE CHECKED. BUT I GUESS WHEN YOU'RE TALKING A COUPLE OF BIRDS AND AN UGLY OLD FISH THEN ALL THESE THINGS THAT WILL SURELY DEVASTATE THE ENVIRONMENT MEANS NOTHING.

I SINCERELY BELIEVE THAT EVERY ONE IN THIS ROOM KNOWS THAT WE'RE NOT HERE ABOUT TWO KINDS OF BIRDS AND AN UGLY OLD FISH, IF YOU DO HAVE SOME STRONG FEELINGS ABOUT TERNS AND PLOVERS I SUGGEST YOU MAKE A TRIP DOWN TO GULFPORT, MISS. TAKE A LEFT TURN ON HIGHWAY 90 AND DRIVE THE SHORT DISTANCE TO BILOXI AND

4

LOOK TO YOUR RIGHT, YOU'LL GET TO SEE ABOUT A GILLION, TRILION OF THOSE BIRDS AND IF YOU HAVE SOME EMOTIONAL ATTACHMENT TO THE PALLID STURGEON THEN I WISH YOU WOULD TRY TO FISH ANY WHERE FROM HERE SOUTH AND COUNT THE NUMBER OF TIMES YOU CURSE THAT OLD LOCALLY CALLED ALIGATOR GAR THAT HAS GOTTEN YOUR BAIT AND BENT YOUR FISH HOOK TO THE POINT THAT IT'S OF NO USE TO YOU.

AS I'VE SAID BEFORE, MAKE NO MISTAKE, THESE PURPOSED CHANGES HAVE LITTLE OR NOTHING TO DO WITH BIRDS OR FISH IN THE MISSOURI RIVER, IT ALL HAS TO DO WITH MONEY, RECREATION MONEY TO BE SPECIFIC. ALL SIX OF THE ALTERNATIVES BEING CONSIDERED IN THE REVISED DRAFT EIS ALLOWS FOR ADDITIONAL WATER STORAGE IN THE UPSTREAM RESERVOIRS IN MONTANA AND THE DAKOTAS TO KEEP THEM AT A HIGHER LEVEL THAT WILL BENEFIT WATER RECREATION.

YOU DON'T HAVE TO BE A HISTORY PROFESSOR TO KNOW THAT THOSE RESERVOIRS WERE NOT BUILD

5

WITH TAX-PAYER DOLLARS FOR THE USE OF WATER SKIERS, BOATERS AND FISHERMEN. THEY WERE BUILT FOR FLOOD CONTROL AND NAVIGATION. THE FACT THAT WATER RELATED RECREATION HAS BECOME SUCH A FINANCIAL WIND-FALL FOR THE STATES OF MONTANA AND THE DAKOTAS IS GREAT BUT WE MUST NOT SACRIFICE FLOOD CONTROL AND NAVIGATION ON THE MISSOURI AND THE MISSISSIPPI RIVERS FOR RECREATION. I WANT TO EMPHASIS THE MISSISSIPPI RIVER HERE BECAUSE I CAN TELL YOU FROM FIRST-HAND EXPERIENCE THAT IN 1988 IF THE ASSISTANT SECRETARY OF THE ARMY FOR CIVIL WORKS, ROBERT PAGE, HAD NOT ORDERED RELEASES OF WATER FROM THOSE MISSOURI RIVER RESERVOIRS THE HEAD-OF-NAVIGATION FOR THE MISSISSIPPI, TENNESSEE, CUMBERLAND, OHIO AND MISSOURI RIVERS WOULD HAVE BEEN SOMEWHERE IN THE VICINITY OF NATCHEZ, MISSISSIPPI, THEN YOU COULD HAVE COUNTED THOSE TRUCKS AND TRAINS AND THE FINANCIAL DISASTER TO THIS GREAT NATION OF OURS. IF MONEY GETS TIGHT VERY FEW HAVE TIME

6

TO THINK ABOUT WATER-SKIING, THAT JUST SUDDENLY IS NOT A PRIORITY.

THE CURRENT WATER CONTROL PLAN FOR THE MISSOURI RIVER HAS WORKED WELL FOR MANY YEARS, IT STILL WORKS WELL, LEAVE IT ALONE, GO HOME, GO TO WORK, THIS COUNTRY HAS MORE IMPORTANT THINGS TO DO. NONE OF US NEED TO BE SPENDING TIME WITH THIS FOOLISHNESS.

THANK YOU.

7

Southeast Missouri
REGIONAL PLANNING & ECONOMIC DEVELOPMENT COMMISSION

1 WEST ST. JOSEPH ST. • P.O. BOX 366 • PERRYVILLE, MO 63775
(573) 547-8357 • FAX (573) 547-7283 • E-MAIL semorpc@ldd.net

Read into Testimony - See pages 72 - 77.

H. WELDON MACKE
CHAIRMAN

JOHN SINGLETON
VICE CHAIRMAN

ERNEST SUTTON, JR.
SECRETARY

CRAIG M. LINDSLEY
TREASURER

THOMAS G. TUCKER
EXECUTIVE DIRECTOR

Testimony by Thomas G. Tucker, Executive Director and Planner-In-Charge
Southeast Missouri Regional Planning and Economic Development Commission
1 West St. Joseph Street, P.O. Box 366
Perryville, Missouri 63775
(573)547-8357
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Concerning Flows on the Missouri River

Good evening ladies and gentlemen. It is my pleasure to be able to have this opportunity to give testimony with regard to potentially reducing flows during a portion of the year on the Missouri River and increasing flows during the spring time of the year which will have a considerable impact on both the Missouri and Mississippi Rivers. I am here this evening representing the New Bourbon Regional Port Authority which has a site permitted at Mile 120.5 on the Mississippi River. In addition to serving as staff to the New Bourbon Port Authority, our staff is also employed by the Southeast Missouri Regional Planning and Economic Development Commission which has keen interest in the economic future of our region, including the three counties that border the Mississippi being Ste. Genevieve, Perry and Cape Girardeau Counties. On this stretch of the river, two Port Authorities are located. In addition to the New Bourbon Port site which is in the developmental stage, the Southeast Missouri Regional Port Authority located in Cape Girardeau and Scott Counties is a full-fledged Port Authority which is in full operation and has a slackwater harbor, its own short line railroad, and obviously, loading and off-loading facilities.

I want to make it perfectly clear that none of the organizations with which I work or represent are anti-environmental. I have worked for over 31 years myself personally on community and economic development projects which improve the environment in our seven county region. We serve the counties of Bollinger, Cape Girardeau, Iron, Madison, Perry, St. Francois and Ste. Genevieve and some 35 incorporated cities. We have worked diligently to improve potable water supply, storage and treatment and transmission, development or upgrading of wastewater treatment facilities, open space development and our organization has designed over 50 recreational park facilities which are now in place. We believe that the fluctuations proposed on the Missouri River will create considerable problems not only on the Missouri River, but also on the Mississippi River. There are several points that I wish to make this evening, and I will iterate those below.

1. The stretch of the Mississippi River from St. Louis to Cairo is often referred to as the "bottleneck reach" because of the need for flow support to provide for transportation needs. During periods of low flow in the Mississippi, the Missouri River provides as much as two-thirds of the water to the "bottleneck reach" of the Mississippi River supporting navigation and other beneficial uses of the river. Depletion of water from the Missouri River will further increase the problem of low flow in this stretch.

2. Reduced flows in both the Missouri and Mississippi Rivers will lend to increased shipping costs for Midwest grain producers, further reducing their ability to compete with foreign producers.

3. Reduced barge shipments, caused by either spring flooding or low river flow, will increase the amount of shipping by rail and truck, further compounding surface transportation congestion and adding air pollution and raising fuel consumption.

   Additionally, we have concerns about whether or not there is sufficient truck and rail capacity if the rivers are closed to traffic.

4. Because of the proposed changes in the flow on the Missouri River, we see the potential for additional flooding to very valuable farm land which may also disrupt interstate travel as it did in 1993. We consider this to be very detrimental to the economy and livelihoods of those who reside in our seven counties.

5. The cost of shipment of low sulphur coal on the Missouri River and then to the Mississippi may well be diverted to rail and truck traffic which would, most assuredly, increase the cost for the transportation of low sulphur coal and cause the price for electricity to escalate, perhaps as much as 10%, which will impact all users of electricity served by the plants that receive this coal.

6. Impediments to the flow of river traffic on the Missouri and Mississippi Rivers will greatly impact exporting of various materials through the Missouri and Mississippi River systems and on to New Orleans. There are already times during droughts when the Mississippi River is closed down due to the fact that sufficient channel depth is not available to take loaded tows up or down the river.

7. Causing high levels of water in the spring and low levels of water during the remainder of the year simply by proposed releases may well either put Port Authorities out of business because of high water, or equally important, low water. This will mean that thousands of jobs will be impacted by the Port Authorities in Missouri alone.

We firmly believe that the Missouri River can be left to flow as it is now and provide ample opportunities for wildlife to utilize the river system. If it is felt that if additional wetlands are needed to be created, then it would be far less expensive to construct additional wetland areas than to have the negative economic impact which will occur with the proposals that are being presented.

I thank you for the opportunity to make these comments for the public record and hope that you will reconsider the plan as it now stands.

LAFARGE NORTH AMERICA

Read into Testimony - See pages 77 - 78.

RDEIS Missouri River Master Water Control Manual
January 21, 2002 Public Meeting
Cape Girardeau, Missouri

Good evening, my name is Carrie Jenks. I am the Barge Scheduler in the River Region for Lafarge North America Inc.

Lafarge North America Inc. is a worldwide leader in supplying construction materials, most notably Portland cement, concrete, aggregates, wallboard, and roofing tiles. Lafarge is strongly committed to producing high quality products and safeguarding our environment. For the River Region, barge transportation is the most efficient, effective and environmentally safe method of transportation that can best be used to supply our 6 plants and 11 terminals located on the Missouri, Mississippi, Ohio rivers and other inland waterways.

Directly impacted by the Missouri River Master Water Control Manual is Lafarge North America's cement manufacturing facility in Sugarcreek, Missouri. Through the vital river link, this plant has supplied the Omaha terminal with cement for almost thirty-six years. A project underway at the Sugarcreek plant to meet heightened customer demands in the Kansas City and Omaha areas will result in increased cement production from 500,000 tons to 900,000 tons per year. Lafarge is investing heavily in this location. We have also recently invested over $300,000 in the barges used to transport cement to Omaha, Nebraska.

One barge is equivalent to 15 large hopper rail cars or the same as 58 large trucks. The number of miles one ton can be carried per gallon of fuel is 514 miles by barge, 59 miles by truck and 202 miles by rail. In an analysis located on www.mvr.usace.army.mil, a shift from vessels to trucks would result in the following annual increases: 826% increase in fuel, 709% increase in exhaust emissions and the additional need to dispose of 2,746 truck tires. These are significant environmental and quality of life impacts. Navigation is important to maintaining a competitive balance between rail/truck - [illegible]
In conclusion, Lafarge desires to continue the use of barge transportation with the understanding that it is the most cost effective, safe, and environmentally sound method of transportation. Lafarge North America supports the current water control plan for the operation of the Missouri River.

CEMENT GROUP, BARGE OPERATIONS
2500 Portland Road, Grand Chain, IL 62941

SEMO PORT

Read as Testimony - See pages 78 - 81.

Southeast Missouri Regional Port Authority • 10 Bill Bess Drive • Scott City, MO 63780
573-264-4045 Fax 573-264-2727

January 21, 2002

Statement for Public Meeting at Cape Girardeau MO on Monday January 21, 2002, held by the Corps of Engineers on the Missouri River Master Water Control Manual, Revised Draft Environmental Impact Statement.

by Daniel L. Overbey, Executive Director, Southeast Missouri Regional Port Authority

STATEMENT

The Southeast Missouri Regional Port Authority (Semo Port) was created by Scott County and Cape Girardeau County under Missouri state law in 1975. The centerpiece of Semo Port's industrial park is an 1800-foot slackwater harbor which was opened in 1990 at a cost of approximately $5 million. The harbor was constructed by the Corps of Engineers under a Local Cooperation Agreement with the Port. Local taxpayers in the two counties voted a one-quarter cent sales tax, which ran from 1986 through 1990 and generated over $7 million dollars. The tax was passed by over 70% of the voters in each county, indicating strong local support for industrial development at Semo Port. The local tax funds provided a significant portion of the harbor's cost, which was built in conjunction with the Corps of Engineers.

Today, six companies lease land at Semo Port and generate over 900,000 tons of cargo annually. The harbor is one-third developed. Additional industries can be accommodated at relatively low cost because the basic infrastructure is now in place: state highways, streets, switching railroad, water system, sewer system, three-phase electric, natural gas, telephone lines, and the public terminal (general cargo dock). The Port focuses on high-volume terminals and encourages low-volume firms to utilize the public terminal. This confines the development to a relatively small space, maximizes use of facilities, and minimizes overall impact on the river and its habitat.

Flooding concerns. One concern about the "spring rise" scenario for the Missouri River is its impact on flooding on the Mississippi River. The 1993 and 1995 floods set new records and caused extensive damage. There is widespread concern about any plan which promotes flooding and places extensive reliance on rainfall forecasts 14-to-21 days in advance.

Drought concerns. An even greater concern is the summer "low water" scenario. The Corps is required by law to maintain a nine-foot navigation channel north of Cairo IL on the Mississippi River. This requires an extensive amount of dredging in addition to dikes, weirs, and other permanent structures.

Reduce during

Reducing the water flow will require increased expenditures for more dredging and more permanent structures to maintain the channel. This will make it more difficult for the Corps to maintain a balance between navigation needs and environmental improvements.

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DAVID SCHWAB
State Representative
District 157

COMMITTEES
Agri-Business
Appropriations-General Administration
Budget
Professional Registration & Licensing
Retirement
Transportation

Previously entered into transcript - see pages 81 - 92.

January 17, 2002

Rose Hargrave
Master Manual Project Leader
U.S. Army Corps of Engineers
Northwestern Division
12565 W. Center Road
Omaha, NE 68144-3869

Attn: Missouri River Master Manual RDEIS

Dear Ms. Hargrave:

As members of the Missouri Legislature representing citizens affected by the Mississippi River, we would like to address the proposed changes in the Missouri River Master Manual Revised Draft Environmental Impact Statement. The Missouri Senate and House of Representatives passed Senate Concurrent Resolution Number 13 during the Legislative session in 2001, which we are enclosing. This letter is to also indicate our desire that the current water control plan be maintained as the guidance plan for Master Manual operations. Of the alternatives currently under consideration by the Corps, we believe the five other options for proposed management changes create the potential for the following concerns:

- Summer flows reduced to below minimum navigation levels on the Missouri River will negatively impact river commerce on the Mississippi River. The MCP alternative decreases flow support to the Mississippi 40 out of 100 years (40 percent). Missouri DNR analysis indicates that 75 percent of the time or 30 out of 40 years, these cutbacks in flow coincide with low water on the Mississippi. The current water control plan decreases flow support 9 percent of the time and coincides with low water on the Mississippi about 78 percent of the time. The reduced flows of the Gavins Point flow regimes will adversely impact Mississippi River operations between Cairo, IL and St. Louis, MO. Flow reliability contributed to the Mississippi River by the Missouri is undoubtedly greater with the current water control plan than with any other.

This is particularly true in that portion of the Mississippi River between Cairo IL and St Louis MO, a segment which already has been heavily channelized. The Corps' St Louis District has made extensive efforts to improve this part of the river, working in conjunction with a variety of state and Federal agencies, and it would be most unfortunate to implement a Missouri River plan which works to the detriment of these efforts south of St Louis MO.

Transportation economics. Reduced water flows increase barge costs and reduce prices received by farmers and other producers. While the Corps is required to maintain a nine-foot channel north of Cairo IL, most of the time the river will support barges with a twelve-foot draft. Grain elevators and farmers have come to consider the twelve-foot draft as normal. When the river is down to the minimum nine-foot channel, grain elevators must "light load" the barges they ship, using only 75% of the capacity in the barge. The cost of towing the barge is not reduced by much, and consequently the cost per ton (or per bushel) goes up dramatically. When the nine-foot channel level is not obtained, as during a serious drought, barge costs go up even more, with loads reduced even more.

The price paid for farm commodities (and many other products) is a world price, and the price received by local farmers is the world price less the cost of taking the product to the world market. When barge costs increase dramatically, as during a drought and low water, the farmer's price is reduced accordingly – and this at a time of drought when farm revenues are already low. Farmers, like producers in many other industries, are facing very strong world competition, particularly from low-cost producers in South America. Farmers do not need more policies and regulations which hinder their ability to compete, and reduce the amount of food available to other nations.

Environmental concerns. Barge transportation is the most environmentally-friendly mode, when compared to railroad trains and highway trucks. Barges are more fuel-efficient and therefore generate less pollution. Barges are safer, causing many fewer accidents. Barges move products at lower cost, while paying significant amounts into the Waterways Trust Fund. These factors must be weighed in the total picture, with consideration given to the benefits of barge transportation for the overall environment.

Summary. I do not believe the Corps of Engineers has given adequate consideration to these factors and how they affect the Mississippi River between St Louis MO and Cairo IL. The work done by the Corps of Engineers and other Federal agencies has focused on the immediate problems along the Missouri River. It would be tragic to address the problems of one segment of the river system and create worse problems on another segment. It would be tragic to address certain specific environmental issues in a vacuum and ignore the ripple effects in other parts of the environment and the economy.

I appreciate the opportunity to present these concerns to you.

- A man-made "spring rise" has the potential to cause flooding and inland agricultural drainage problems. The U.S. Army Corps of Engineers (Corps) does not have the ability to accurately forecast rain events or rain runoff and can, therefore, release water in advance of a major rainstorm creating flood devastation. Missouri River dams, originally built to reduce flooding, have prevented $18 billion in flood damages and should continued to be used to prevent, rather than create, floods.

- Higher reservoir levels reduce the water commitment to downstream states impacting future water supplies needed for irrigation, municipal drinking water, river commerce and water quality standard permitting.

- Summer flows reduced to "minimum" navigation levels or below will devastate congressionally authorized river commerce on the Missouri River. Annual regional economic benefits from Missouri River commerce are $75-200 million per year. Studies by FAPRI at the University of Missouri indicate the loss of this river commerce could reduce the commodity corn price by 19 cents per bushel, with similar reduction in crop prices for soybeans and wheat (10% of the current price paid to farmers).

- Flow reductions may also jeopardize the ability of utilities that draw Missouri River cooling water to meet the electricity needs of their customers during critical electrical demands. Water supply users may also be affected by water quality issues as discharges are made into a lower flowing river.

- Adaptive management creates too much freedom for the Corps to adjust river management, and specifically flow management, without any significant input from the public. It also provides no safeguards for the social and economic impacts that will undoubtedly occur.

The National Academy of Science Report stated, "The most significant scientific unknowns in the Missouri River ecosystem are how the ecosystem will respond to management actions designed to improve ecological conditions." In essence, the problems have been identified but the proposed solutions are highly questionable. Decisions made on future management of the river must take into account the social and economic costs to all stakeholders in addition to the one-dimensional focus on conservation that has defined this process to date.

Agriculture, Missouri River commerce and energy production have played a tremendous role in the making of this great nation. The Mississippi River, too, has a rich history in our nation's development. To minimize the importance of the Missouri River's role in Mississippi River flow support along with that of the potential negative economic impacts to agriculture, river commerce and energy production will create a precedent that is not in this country's best interest.

With this in mind, we respectfully request the U.S. Army Corps of Engineers continue with the current water control plan as the option of choice for Missouri River management.

Sincerely,

Senator Peter Kinder
District 27

Senator Bill Foster
Senator 25

Representative David Schwab
District 157

Representative Lamie Black
District 161

Representative Peter Myers
District 160

Representative Mark Richardson
District 154

Representative Phillip Britt
District 163

Representative Jason Crowell
District 158

Representative Rod Jetton
District 156

Representative Patrick Naeger
District 155

Representative Denny Merideth III
District 162

Representative Robert Mayer
District 159

HOUSE COMMITTEE SUBSTITUTE
FOR
SENATE SUBSTITUTE
FOR
SENATE CONCURRENT RESOLUTION NO. 13

WHEREAS, the United States Fish and Wildlife Service has recommended that the United States Army Corps of Engineers implement the so-called "spring rise-split season" plan for operation of the Missouri River mainstem reservoir system. This plan would result in an increase in the flow of the Missouri River in the spring and a reduction of the flow in the summer of each year, purportedly to improve habitat for the threatened and endangered pallid sturgeon, least tern and piping plover; and

WHEREAS, additional changes under consideration by the United States Army Corps of Engineers to the Missouri River Master Manual would result in the storage of more water in the upstream reservoirs while decreasing the amount of water available downstream for designated uses. These changes would shorten the navigation season on the Missouri River by twenty-seven days in November and put at risk Mississippi River navigation as well; and

WHEREAS, analysis of the proposed changes by the state of Missouri and the United States Army Corps of Engineers has indicated these changes will fail to improve and will potentially diminish habitat for the species in question, will increase the risk of flooding along the Missouri River, and will result in a decrease in river levels in early summer and fall which will impact navigation and other designated uses on the Missouri and Mississippi Rivers; and

WHEREAS, habitat restoration along the lower Mississippi River has demonstrated great success in aiding the recovery of these species and a similar approach should be given the opportunity to succeed on the Missouri River; and

WHEREAS, these plans have the potential for severe impact on any industry which uses the Missouri River or Mississippi River to transport products and the potential to increase risk of flooding in river communities and on farm land in the Missouri and lower Mississippi River basins; and

WHEREAS, these proposals do not adequately address the concerns and needs of states in the lower Missouri and Mississippi River basin, and will not realize the purported benefit of increasing habitat for endangered species; and

WHEREAS, the Missouri departments of natural resources, conservation and transportation have opposed these plans and have informed the Fish and Wildlife Service and the United States Army Corps of Engineers of their concerns regarding the potential impact on the state's river communities, lands, businesses and wildlife habitat:

NOW, THEREFORE, BE IT RESOLVED that the members of the Missouri Senate, Ninety-first General Assembly, First Regular Session, the House of Representatives concurring therein, hereby urge the Governor to protest against any proposals that would so negatively impact beneficial uses of the lower Missouri and Mississippi Rivers and would not significantly improve conditions for the species of concern; and

BE IT FURTHER RESOLVED that the members of the General Assembly urge the Department of Natural Resources, the Department of Conservation and the Department of Transportation to continue to insist that any plan involving the operations of the Missouri River improve the Missouri River for all beneficial uses and be sure any river management changes are based on sound science; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare properly inscribed copies of this resolution for the United States Fish and Wildlife Service, the United States Army Corps of Engineers, the Governor of Missouri, the Director of the Department of Natural Resources, the Director of the Department of Conservation and the Director of the Department of Transportation.

Committee on Critical Issues, Consumer Protection and Housing, Chairman Harlan reporting:

LEVEE DISTRICT NO. 3

Mississippi County

P.O. BOX 397
WYATT, MISSOURI 63882

Previously typed into transcript - see pages 92 - 93.

JANUARY 21, 2002

My name is David B. Brewer. I am president of Levee District Number 3 of Mississippi County Missouri. Our Levee District is responsible for several miles of levee above the confluence of the Mississippi and Ohio Rivers and several miles of levee below the confluence of those two rivers. Our Levee District operates two pumping plants during periods of high water. We cannot stand any more discharges of water from above than we are now receiving.

We are here to show support for SENATOR KIT BOND and the people of the State of Missouri who oppose any change in the operating plan for the Missouri River. We cannot take a chance that any new operational plan could adversely affect flood control and navigation.

We support the present Master Control Plan that works and follows the purpose (flood control and navigation) for which the reservoirs in Montana and the Dakotas were built.

Our Levee Districts purpose is to protect the lives and property of people. Those advocating a change in the current water control plan, we think, want to protect something else. We plan to stick to our mission and we thank Senator Kit Bond as well as Representative Jo Ann Emerson for their continued help and support in this fight.

Sincerely,

David B. Brewer

David B. Brewer

PEMISCOT COUNTY PORT AUTHORITY
619 Ward Avenue
Caruthersville, MO 63830
(573) 333-4125

Same as L0400002.

January 21, 2002

U.S. Army Corps of Engineers
Project Manager
Master Manual Review and Update
12565 West Center Road
Omaha, NE 68144

Dear Madam or Sir:

I regret that I am unable to attend the public meeting on the Revised Draft Environmental Impact Statement for the Missouri River Water Control Manual in Cape Girardeau tonight. Nevertheless, I wish to enter the following comments on behalf of the Pemiscot County Port Authority, a public port located at mile 849 on the Lower Mississippi River.

My board of commissioners and I have reviewed available materials on the six alternatives presented in the RDEIS. We are convinced that all proposed alternatives to the Current Water Control Plan would have an adverse effect on navigation and flood control on the Missouri River. Moreover, we believe that all these alternatives would also adversely impact navigation and flood control on the Upper Mississippi south of St. Louis and on the Lower Mississippi.

In addition to annual maintenance dredging at our port and other ports on the Lower Mississippi, periodic emergency dredging has been required to maintain adequate draft depths in our harbors more frequently in recent years. Proposed alternatives to the CWCP would reduce flows downstream, further exacerbating this serious situation.

We also believe that the environmental arguments in favor of other alternatives are merely smokescreens for the usurpation of water rights by a variety of interests in upstream states. Rejection of the CWCP cannot be justified on any but blatantly political grounds.

We urge the Corps of Engineers to reject the proposed alternatives and support operation of the Missouri under the Current Water Control Plan.

Sincerely,

David P. Madison
Executive Director

Previously typed into transcript - see pages 95 - 98.

Missouri River Hearing
U.S. Army Corps of Engineers
Cape Girardeau, Missouri
January 21, 2002

The definition of the word: Re.gres.sion
Pronunciation: ri-'gre-sh&n

1. The act or an instance of regressing.
2. A trend or shift toward a lower or less perfect state.
3. Reversion to an earlier behavioral level - gradual loss of acquired skills. Retrograde motion.

The definition of the word: Ret.ro.grade
Pronunciation: 're-tr&-"grad

1. Having a direction contrary to that of the general motion of similar bodies.
2. Moving, occurring, or performed in a backward direction or opposite to the usual direction.
3. Tending toward or resulting in a worse or previous state, archaic, to turn back, reverse to a worse condition. Backward.

These are but two of the words that could be used to describe the Missouri River should the Corps of Engineers decide to change it's current flow.

I have been Executive Director of the New Madrid County Port Authority for the past three (3) years. During my second year at the port, the Mississippi River was so low, the Corps had to perform an emergency dredge to enable the farm commodities to move in and out of the slack-water harbor. This past summer the New Madrid City Harbor had to be dredged and a down stream dike had to be degraded to correct the silting problems at the harbor. Low River stages for the past two years has required the electric company in the St. Jude Industrial Park to use a large pumping barge to transport water into their facility.

Springtime for the past several years has seen signs posted on the sand bars across the river from the towns of New Madrid and Portageville. These signs warn humans of the fines they would encounter should they decide to use the sand bars for recreations....you see, this was the season for the hatching of the least tern and the humans would disrupt the birds normal nesting pattern of laying eggs on top of the sand. The humans complied and we waited until the signs were removed before we used the sand bar for fishing and water sports.

One of the Corps proposed alternatives is a plan to mimic traditional seasonal flow changes – a surge in the spring when mountain snow melts and less water in the summer and some say this is the only way to comply with the federal Endangered Species Act. My first question to you is this: 1. What's going to happen to the least terns in our neck of the woods? Correct me if I'm wrong but aren't least terns endangered species and would this mean the least terns on the Missouri River are more important than the least terns on the Mississippi River.

Less water on the Missouri River in the summer means less water on the Mississippi River. Less barge traffic, higher transportation prices, more trucks on the highway, more accidents on the highways, more harbor dredging, more money spent to maintain navigation on both rivers. So my remaining questions to you are:

Can the Corps guarantee the dredging will be done at no extra cost to the Port Authority, Tenants or Farmers? Can the Corps guarantee the prices to transport commodities will not increase? Can the Corps guarantee the least terns will be able to raise their young on the sand bars of New Madrid and Portageville? Can the Corps guarantee there will be time available for the area people to enjoy recreation on the river? Can the Corps guarantee my children will be safe on the highways with the addition of so many trucks since the barges won't be able to travel the rivers as they have in the past?

Timmie L. Hunter, Executive Director
New Madrid County Port Authority
600 Main St
New Madrid MO

Previously typed into transcript - see pages 99 - 103.

Holcim

Holcim (US) Inc.
2942 US Highway 61
Bloomsdale, MO 63627

Phone 636 933 8170
866 465 2467
Fax 636 933 8199
www.holcim.com/us

Mr. Looman F. Stingo, Holcim (US) Inc.
Testimony before the US Army Corps of Engineers for the Revised Draft Environmental Impact Statement for the Missouri River Master Water Control Manual
Public Meeting, January 21, 2002

Good evening. My name is Looman Stingo, Chairman of the Board for the Midwest Area River Coalition (MARC) 2000 and Senior Vice President, Logistics for Holcim. I would like to begin by thanking the members of the United States Army Corps of Engineers-Northwestern Division for allowing me to provide this testimony on the Revised Draft Environmental Impact Statement (RDEIS) for the Missouri River Master Water Control Manual.

As you know, MARC 2000 is a coalition of agricultural, industrial, environmental, and government interests aimed at promoting Midwest economic growth by responsibly developing and improving the Upper Mississippi and Illinois River Systems.

Holcim is one of the world's leading suppliers of cement, aggregates, and concrete. Holcim has over 3,300 inland barge movements annually, accounting for approximately 2.9 billion ton-miles from ports all along the Mississippi stretching as far north as Minneapolis and as far south as New Orleans. I have come here tonight to express concerns regarding the potentially negative consequences the Corps actions could have on the various interests and stakeholders along the river.

Having carefully reviewed the range of alternatives proposed by the Corps in the RDEIS, we are concerned that most of the options presented by the Corps have the potential to severely impact commercial and recreational interests along the Mississippi River. It is our conclusion that five of the six proposed alternatives will impair the future of navigation on the Missouri River, dramatically affect the reliability of the Mississippi River, and seriously increase the risk of flooding to residents and farmers.

According to the Corps, all of the proposals, except the Current Water Control Plan, shift water benefits and usage to the Upper Basin Reservoirs in an effort to save water during periods of drought and hold it for future uses. By changing the trigger points that establish length of the navigation season and increasing the level at which water will not be released, the Corps eliminates sustainable navigation and agriculture use on the Missouri River.

The Missouri River accounts for up to 60 percent of the Mississippi River's water volume between St. Louis and the mouth of the Ohio River. The Missouri's water is necessary to maintain navigable levels on the Mississippi during the peak shipping months in late summer and autumn. I find it fortuitous that the Corps is holding one of the hearings here in Cape Girardeau since the issues are especially relevant to this community and this part of the river referred to as the "Middle Mississippi." This segment of the river would potentially become an unreliable transportation alternative, land locking the upper Midwest and completely disrupting the ability of commercial interests to maintain operations.

But it is not the only the Middle Mississippi that could be severely impacted. The changed river flows proposed by the Corps also threaten to disrupt or shorten certain navigation seasons and completely eliminate others large segments along BOTH the Missouri and Mississippi Rivers. This would force many river users to consider using other modes of transportation. This would have severe impacts on our environment by putting more trucks on the road and worsening the safety of our nation's highways and roadways. With one modern barge equaling 870 trucks, the impacts are significant. Additionally, water compelled rates keep the costs of other modes of transportation down. If the 38 million tons of cargo annually shipped by barge on the Missouri River alone was diverted to rail and truck transport, producers and consumers would suffer an increased burden of $200 million each year.

We also remain very concerned that summary documentation prepared by the Corps for these hearings is misleading, incomplete, or lacks the empirical evidence needed to make the necessary determinations. For example, the Corps presented data averaging impacts over 100 years -- completely eliminating the real market impacts of severe years of loss. A major storm event in any one year could completely drive out of business a number of companies that rely upon the river for commercial navigation.

In our opinion, the Current Water Controlled Plan adequately balances river uses and we would urge the Corps to investigate non-flow alternatives to address the endangered species issues at the center of these changes. There is no evidence to support that these actions will help the species, that other means of creating habitat cannot accomplish similar goals, and that sufficient attention has been paid to understanding the real-world impacts of reducing the reliability of our water transportation system.

Thank you for allowing me to voice my concerns on this critically important issue.

Strength. Performance. Passion.

QUINCY, ILLINOIS TRANSCRIPT— JANUARY 23, 2002

MISSOURI RIVER BASIN WATER MANAGEMENT

PUBLIC HEARING held on January 23, 2002 at the Quincy Holiday Inn, 201 South Third Street, Quincy, Illinois at 7:00 p.m.

APPEARANCES:

Col. David Fastabend, Hearing Officer
Department of the Army
Northwestern Division, Corps of Engineers
12565 West Center Road
Omaha, Nebraska 68144-3869

Kathy A. Genenbacher, CSR
924 Rim Road
Quincy, Illinois 62301

PROCEEDINGS

COL. DAVID FASTABEND: Good evening. We've got a little bit of wiring going on up front, but I thought I would go ahead and get things started. I'm General David Fastabend, Commander of the Northwestern Division. My division goes all the way from the Missouri River Basin and the Columbia River Basin so I'm introducing myself as Commander of the entire Northwestern Division. I know that you all have local concerns, and we're here to hear all about those local concerns today.

The Corps of Engineers is kind of uniquely postured within our society to try to take these projects that were built a long time ago and understand all the multiple purposes for which they were built and all the multiple state controllers involved and how they are run and capture your input and try to address those multiple purposes while still complying with the Endangered Species Act and all kinds of other environmental law. We can't do that unless we get input from the people who live on the river and make their living on the river. So we're really very glad to have an opportunity to come out here.

We understand that the Missouri is

connected to the Mississippi. You have got some serious concerns I hear. We want to hear them firsthand.

I have got some people here with me from the Omaha office at my headquarters. I will point out some of them to you. Roy McAllister there in the blue sweater, Patti Lee right behind him, Jody Farhat, Larry Cieslik, Paul Johnston. I don't know if Betty Newhouse is here. There she is. John LaRandeau. Have I got everybody on the team? I think I have got it for right now. And they are part of the Missouri River Master Manual Team.

They were here today. Some of you may have had a chance to talk to them. If you did not, if we have a break tonight or after the hearing I invite you to chat with them. They have a wealth of knowledge and understanding about the Missouri River and the Missouri River Master Manual process. So we have it set up front?

The hearing session will come to order. Our purpose this evening is to conduct a public hearing on proposed changes to the guidelines for the Missouri River Main Stem System Operations. Before I proceed, do we have any elected officials or their representatives here who wish to be recognized this

evening? All right. I'll continue.

This hearing is being recorded by Kathy Genenbacher, who will be taking verbatim testimony. That will be the basis for the official transcript and record of this hearing. This transcript with all written statements and other data will be made part of the administrative record for action. Persons who are interested in obtaining a copy of the transcript for this session or any other session can do so.

Persons interested in receiving a copy need to indicate this on one of the cards available at the table by the entrance. Also, if you are not on our mailing list and want to be on our mailing list, please indicate that on the card.

Now in order to have an orderly hearing it is essential that I have a card from everyone desiring to speak giving your name and who you represent. If you desire to make a statement and have not filled out a card, please raise your hand, and we will furnish a card to you.

The primary purpose of tonight's session is to help ensure that we have all the essential information that we will need to make our decision on establishing the guidelines for the future operations of the Missouri River Main Stem System and that the

5

information we have is accurate. This is your opportunity to provide us with that information. We view this as a very important opportunity for you to have an influence on the decision and for us to hear your views. We are all glad that you are here tonight.

I want you to remember that tonight's forum is to discuss the proposed changes in the operation of the Missouri River Main Stem System as analyzed in the Revised Draft Environmental Impact Statement. We should concentrate our efforts this evening on issues specific to that decision.

It is my intention to give all interested parties an opportunity to express their views on the proposed changes freely, fully and publicly. It is in the spirit of seeking a full disclosure and providing an opportunity for you to be heard regarding the future decision that we have called this hearing. Anyone wishing to speak or make a statement will be given the opportunity to do so.

The Missouri River Main Stem System consists of all Corps of Engineers constructed and operated projects, so officially that makes the Corps of Engineers a project proponent, however, it is our intention that the final decision on the future

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operational guidelines for these projects will reflect a plan that considers the views of all interests, focuses on the contemporary and future needs served by the Main Stem System and meets the requirements established by Congress.

As Hearing Officer my role and responsibilities is to conduct this hearing in such a manner as to ensure the full disclosure of all relevant facts bearing on the information that we currently have before us. If the information is inaccurate or incomplete, we need to know that, and you can help us make that determination.

Ultimately, the final selection of a plan that provides the framework for the future operations of the Main Stem System will be based on the benefits that may be expected to accrue from the proposed plan as well as the probable negative impacts, including cumulative impacts. This includes significant social, economic and environmental factors.

Should you desire to submit a written statement and do not have it prepared at this time you may send it to the U.S. Army Corps of Engineers, Northwestern Division, my office in Omaha, and information with respect to addresses and everything else is available at the back of the room. You may

also submit your comments by fax or electronically by E-mail. If you need further information, as I said, we can make that available to you as far as how to contact us.

The official record for this hearing will be open until 28 February 2002. To be properly considered, your written statement must be post marked by that date.

Before I begin to take testimony, I would like to say a few words about the order and procedure that will be followed. When we call your name, please come forward to the lectern, state your name and address and specify whether or not you are representing a group, agency, organization or if you are speaking as an individual. You will be given five minutes to complete your testimony. If you are going to read a statement, we would appreciate it if a copy could be provided to the court recorder prior to speaking so that your remarks will not have to be taken down verbatim.

After all statements have been made, time will be allowed for any additional remarks. During the session I may ask questions to clarify points for my own satisfaction. Since the purpose of this public hearing is to gather information to be issued

in evaluating the proposed plan or alternatives to it and since open debate between members of the audience will be counterproductive to this purpose I must insist all comments be directed to me, the Hearing Officer.

With the exception of public officials or their representatives, who will speak first, speakers will be given an equal opportunity to comment. Please remember speakers will be limited to five minutes. We will be using a lighted timer. When the yellow light comes on it means you have two minutes of time remaining. When the red light comes on your five minutes are up. No portion of unused time allotted to each speaker may be transferred to any other presenter.

The purpose of the hearing is to permit members of the public an equal opportunity to concisely present their views, information or evidence.

And I understand we still have no elected officials here. I need to back up a little bit, point out there are some people from some cooperating agencies that are here with us this evening as well. Mr. Jimmy Black from the Western Area Power Authority, Miss Pam Haverland from the USGS. I think

9

she stepped out, but any way, USGS is here tonight with us as well.

Okay. I will move the microphone to the podium, and we will take a look at the cards. Oh, I'm sorry, first we are going to show a video.

(Whereupon a video was shown.)

COL. DAVID FASTABEND: Okay. We won't put you through that second video since you had the real thing tonight.

MR. CIESLIK: Michael Wells, representing the Governor of Missouri, Bob Holden.

MR. WELLS: Good evening, General. My name is Mike Wells, and I am Chief of Water Resources for the State of Missouri. Thank you for allowing me the opportunity to present additional testimony on this most important issue to the State of Missouri.

On Monday night of this week D.K. Hirner, Deputy Chief of Staff for Governor Bob Holden, presented comments for the Governor at the public hearing in Cape Girardeau, Missouri. I will take this opportunity to provide additional information in support of the Governor's testimony.

One of the points in Governor Holden's comments was his opposition to the proposed

10

Nav 64

reductions of downstream flows. In support of the Governor's position and for the public record I am submitting two schematic drawings which clearly demonstrate how all five of the new plans will shift water to the upper basin reservoirs by setting triggers for reducing service to downstream users significantly higher than the current plan. These higher triggers will significantly increase the frequency in which flow support for downstream uses will be reduced. These triggers must be drastically lowered in order to honor the Federal Government's commitment to protect Mississippi River commerce and maintain it as a reliable and cost effective transportation mode.

Miss 24

In the Governor's comments he also expressed his displeasure that the impacts of the five new plans would have on Mississippi River navigation have not been thoroughly analyzed and displayed in the RDEIS for public review. As an example of the adverse impacts, I have attached two graphs showing how Mississippi River navigation would have been impacted the past two years had the Modified Conservation Plan been in operation. Unfortunately for Mississippi River interests, the Modified Conservation Plan is imbedded in all five of

11

the new plans under consideration.

In addition, Missouri is committed to improving the environmental health of the Missouri River while ensuring the economic security of its citizens. Although there have been some successful habitat restoration projects on the Missouri River, there are many additional opportunities to greatly expand these efforts.

WRH 6

The St. Louis Corps District has over 20 years of experience in the use of environmental river engineering to create and improve fish and wildlife habitat on the Mississippi River without implementing flow alterations.

Governor Holden has encouraged the Northwest Division to consider implementing habitat restoration projects similar to those undertaken by the Corps' St. Louis District along the Mississippi River. These projects have proven to be tremendously effective. The Governor requests that the same engineering techniques be used on the Missouri River to restore habitat.

WRH 6
EnSp 48

I am submitting for the record tonight the most recent copy of the St. Louis District's handbook entitled Environmental River Engineering on the Mississippi.

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Thank you tonight for the opportunity to comment.

COL. DAVID FASTABEND: Thank you, Mr. Wells.

MR. CIESLIK: Frank Becker.

MR. BECKER: Good evening, General. My name is Frank Becker. I'm an agricultural producer in Bowling Green, Missouri, which is just a few miles south of here. I and my brother produce corn, soybeans, wheat, cattle and hogs and about 2000 acres. I'm here in town tonight representing the Missouri Corn Growers Association. I'm on the Board of Directors of Missouri Corn Growers and serve as Vice President. Missouri Corn Growers Association is a grass roots organization representing corn growers across the state of Missouri.

MCGA will support the Current Water Control Plan because it is the only feasible alternative presented by the Corps of Engineers. All other alternatives that are being presented would absolutely be devastating for agriculture.

We are opposed to what is referred to as a spring rise. First, increasing water release flows would flood or decrease drainage on thousands of acres in the Missouri River bottoms. This proposed

FC 8
IntD 8

13

1 controlled flood could be devastating not only for
2 the potential massive flooding but also the delayed
3 plantings due to internal drainage problems in the
4 spring.

FC 8
IntD 8 (con't)

5 It is also proposed that the increased
6 spring flows would be offset in the late summer by a
7 split navigation season. During July through
8 September water releases would fall below levels
9 needed to maintain navigation. This would end
10 navigation on the Missouri River.

Nav 3, 12

11 Now we have come to why a farmer on the
12 Mississippi River is interested in the Missouri
13 River. As you know, barges are the low cost
14 transportation alternative for the agricultural
15 commodities and input. The Missouri River and the
16 Mississippi River are a river system. Barge
17 transportation is a system that requires that both
18 the Missouri and Mississippi River to be maintained
19 and supported as a system.
20 The Missouri River is also a major supplier
21 of water for the Mississippi River. The Missouri
22 River during the drought of 1988 discharges accounted
23 for 63 percent, that's almost two-thirds, of the
24 water flowing past St. Louis from July to October.
25 If the planned flow reduction by the Corps would have

Miss 4

14

1 coincided with another drought, navigation on the
2 Upper Mississippi would have been interrupted costing
3 the nation's farmers and industries millions of
4 dollars a day.

Miss 4 (con't)

5 Navigation on the river system supports
6 more than 400,000 jobs, and over 1.5 million dollars
7 of corn is shipped down the river on barges every
8 year. Farmers depend on the river transportation for
9 their livelihood, and the US depends on us, the
10 farmers, for exports and trade.
11 Barge transportation also places
12 competitive pressure on the regional rail rates. It
13 has been demonstrated numerous times in the areas
14 throughout the country that do not have access to
15 barge transportation that the rail rates are higher.
16 In your, the Corps', analysis it is estimated that
17 the barge competition reduced rail rates in the
18 Missouri River Basin by up to 2 million dollars
19 annually. The importance of barge competition is
20 further heightened by the continued consolidation
21 within the rail industry.

Nav 6, 8

22 We also have concerns about what the Corps
23 calls adaptive management. Through this proposal,
24 adaptive management, the Corps will be given
25 considerable power to make flow release adjustments.

Other 3,10

15

1 These adjustments would be made primarily through
2 consideration of one interest, the endangered
3 species. If it is determined by the Government
4 agencies that for the sake of the species it is
5 needed, the highest spring rise and probably the
6 lowest summer flows could be implemented. We cannot
7 assume that any other alternative would be proposed
8 and accepted by the Fish and Wildlife Service. That
9 is the only thing that they have ever came up with.
10 MCGA is also concerned that we would lose
11 the ability to have public input into these decisions
12 on flow management. This is something that's been
13 guaranteed us by the National Environmental
14 Protection Act we would not have this chance.
15 In summary, gentlemen, a spring rise is
16 unscientific and is unwanted. It threatens farms and
17 towns with increased flows and financial losses
18 through reduced internal drainage. The reduced summer
19 flows would end navigation on the Missouri River and
20 greatly threaten the Mississippi River navigation.
21 Thus, MCGA supports the Current Water
22 Control Plan. Another way to put it is, gentlemen,
23 it ain't broke so why are we trying to fix it. Thank
24 you.
25 COL. DAVID FASTABEND: Thank you, Mr.

Other 3,10,22

16

1 Becker.
2 MR. CIESLIK: Brent Hoerr.
3 MR. HOERR: Brent Hoerr, representing the
4 Marion County Drainage District. Gentlemen, farmers
5 that are in the Marion County Drainage District makes
6 up a small district of about 4,000 acres, and we rely
7 on the river for our crop inputs and also exporting
8 our crops to foreign markets since we have that
9 market advantage here along the river.
10 We feel that the detrimental effects of the
11 lower flows in the summer would be a great hardship
12 for us and those times we are living in right now,
13 and the alternatives that were proposed do not
14 improve the situation, and we don't feel they should
15 even be considered. We are just -- think that the
16 Water Control Manual that is in effect now should be
17 continued until a balanced approach can be pursued,
18 and we do not feel that a balanced plan has been
19 forthcoming, and we are waiting to see one that we
20 can accept.
21 COL. DAVID FASTABEND: Thank you, Mr.
22 Hoerr.
23 MR. CIESLIK: Gerald Jenkins.
24 MR. JENKINS: Good evening and thank you for
25 coming here to Quincy. We welcome you to this town,

Other 6,79,9,193, 23

17

and we hope that you know that you will leave here with some better understanding of what our thoughts are referencing these river issues.

My name is Gerald Jenkins. I am the manager of Ursa Farmers Coop, which is located just north of Quincy. We have two river loading facilities that we load barges on, and naturally the river is very instrumental in what we do.

I am really not here to really talk about a lot of the traditional things. I would ask that you kind of bear with me because I don't have anything written here, but what I want to try to do is leave a message of the economics and how and who might be affected by some of the economics of some of these decisions.

This whole matter of this river issue is much larger and much more complex than I am here to realize, but I also realize that economics will and do play a part in the decision making of what will take place here, and I merchandise grain for Ursa Farms Coop, and I talk to a lot of the people, merchandisers throughout the country, and I do feel I have a general understanding of how that system works and economics of merchandising.

What I am here to try to make sure that you

18

Other 7,48,164

are aware of in your decision making is many times decisions are made from economics and they are based off of who it is going to affect, what percentage of the population or basically of the area is it going to affect if we make different decisions, and many times decisions in agriculture are made and based around the fact that basically less than two percent of the population in this country are producers of agriculture, so decisions I think contend to believe and be made off the fact that we are only affecting two percent of the population, not 98, so we have the economics tell us and the percentages tell us to do that, but really the way merchandising is set up in this country it is not intended to do it in that manner.

Miss 4

What possible effects can happen from the changing of the flow of the water from the Missouri into the Mississippi is to reduce that level of water in the river at different times creating transportation problems, which is going to drive the cost of grain up at the gulf. When you increase the cost of grain at the gulf you decrease exports, and the way the system is set up the first thought is well those effects are going to be affected by the two percent of the farmers that are farming the

19

ground, but the way it is set up when you decrease exports and drive the cost of the grain up at the gulf, which it would do, then what is going to happen is that LDP payments, subsidies that are given, paid out by the Government are going to be increased, and actually the person that is going to burden the majority of those expenses is going to be the Government.

Miss 4 (con't)

Therefore, it is not the two percent that's going to be paying the majority of this potential increase in cost or economic effect. It's actually going to be the Government. Thus, the 98 percent of the regular population is going to actually incur some of these costs. Now the agriculture industry would incur those costs also, but I guess I'm here to leave you with one thought. As you make some of these decisions and you look at economically how it affects things, please keep in mind it's not affecting the minority, the 2 percent or actually the 9/10 of 1 percent of the national population that's doing the farming. It's actually affecting everybody, all the taxpayers. So if you change that flow of the river and drive that cost up because of that result it's going to affect everybody.

Other 7, 23

Thanks for your time.

20

COL. DAVID FASTABEND: Thank you, Mr. Jenkins.

MR. CIESLIK: Kevin Rund.

MR. RUND: Good evening, Colonel Fastabend. My name is Kevin Rund. I'm Director of Local Government and Transportation Specialist for Illinois Farm Bureau, our state's largest general farm organization with over 350,000 members.

Illinois Farm Bureau opposes the flow changes now being considered. We are not simply opposed to change, but with the exception of the Current Master Plan, none of the options proposed are acceptable to us.

Our policy says we support efforts to come to a mutually acceptable revision to the Missouri River Master Water Control Manual while protecting against proposals that would regulate the river's flow to the detriment of the waterway navigation system.

Nav 51

Our policy also says we will urge the Corps of Engineers to adopt water flow management policies that avoid the flooding of farmland situated below any reservoir or dam managed by the Corps.

FC 8

Now because this evening's emphasis is impacts to the Mississippi River I'm going to

21

highlight only two key reasons for our opposition to the change.

Number one, of course, the changes proposed on the Missouri would cause negative impacts in Illinois.

Being on the eastern side of the Mississippi, not many of our members would be directly affected by the flooding caused by the proposed spring rise, but every one of our members would be impacted by the summer low flows and split navigation season being considered, and that goes for all the farmers in the other upper Mississippi River states as well.

Disrupting navigation on the Missouri would cause ripple effects throughout the region and the cross modes of transportation. We would feel the bite in Illinois, and it would come in the form of higher transportation costs due to lowered competition. It would come in the form of worsened air pollution because of more trucks and trains operating in what is already non-attainment area. And in dry years it would come in the form of lost jobs, wages, income and tax revenue because of the inefficient navigation on the Mississippi.

Now the Corps has to look beyond the

Miss 4

22

Missouri Basin to measure the full impacts of the proposals to change the manual. The changes proposed on the Missouri would have some negative impacts in Illinois.

Point number two, experimentation should be contained, not pervasive.

The National Academy of Science has made it clear that mimicking the natural flows in the Missouri River would not guarantee recovery of the three species in question. It would require some experimentation to learn how effective that approach might be, but that experimentation should be conducted on a limited scale in controlled settings. It would cost less to create hundreds, perhaps thousands, of acres of habitat that could be studied in a controlled environment than would be the cost forced on area residents and economies through system-wide experimentation.

The adaptive management approach included among these proposals would be experimentation on a massive scale with the Missouri Basin the petrie dish. It is a trial and error approach that risks people's well-being and livelihoods. If done here we are concerned where the Corps might apply that approach next. It would not be acceptable in

Miss 4 (con't)

Other 14,56

23

Illinois, and we support our counterparts across the Mississippi in saying it is not acceptable in Missouri.

Other 3, 10

There are smaller scale approaches to experimentation that would risk far less. The Corps should look to those first. Experimentation should be contained, not pervasive.

In conclusion, I want to commend the Corps for its persistence in attempting to find a balance among the myriad of interests in the Missouri Basin. I do urge you to not adopt measures that would increase flooding or reduce the efficiency of navigation on either the Missouri or Mississippi Rivers. Instead, for now continue operating under the Current Water Control Plan.

Thanks for listening.

COL. DAVID FASTABEND: Thank you, Mr. Rund.

MR. CIESLIK: Robert Bilderback.

MR. BILDERBACK: I'm an orthopedic surgeon, and I was down in the St. Louis area in '88 and came across an interesting finding in the water supply for St. Louis County. Weldon Springs, they reported -- I was working with the Coalition for Environment, and they loaned me a Geiger counter, and the nuclear

Other 262

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plant at Weldon Springs of course is uphill from the well supply down in the flood plain, and they said the ponds at Busch area was contaminated with nuclear material, so I got a Geiger counter and was walking through the woods and happened to stumble on the water supply for the St. Louis County and noted that the well in the middle of the field, number 13, for some reason was plugged up. They had a sign. It was obviously not active. The rest of them were active. And I walked up to the well with my Geiger counter, and it almost went off the side, and I have got two questions. The nuclear material, since that whole area is flooded, does that wash right down the river? Are you folks monitoring that? Is that another agency?

Other 262 (con't)

COL. DAVID FASTABEND: I will have to get back to you on that.

MR. BILDERBACK: And the other question that I had is what do you do when you take out the silt from the Mississippi and the Missouri River, which is loaded with heavy metals, organophosphates? They say in the Hudson River, which has the same things, PCB's, they said they can't find any place to take that stuff. Do you have the same problem with that material?

Nav 77

25

COL. DAVID FASTABEND: Again, Mr. Bilderback, I'm going to have to get some facts on those issues. I have to confess to you I am not personally aware of those.

MR. BILDERBACK: In the other materials it sounds like a good idea. It looks like to me the barges can run half the time. Is that the story with the way I understand it? I'm not a barge guy. But they run half the time in the year. Can't they run when the water is high, but they can't run when it is low? You're going to plug it up, aren't you, for six months of the year?

COL. DAVID FASTABEND: The various options have various impacts.

MR. BILDERBACK: But at the time when it's high the barges can run, can't they?

COL. DAVID FASTBEND: Mr. Bilderback, I have to ask you do you have any direct comments?

MR. BILDERBACK: I think it's a good idea. It's think a good idea and you should do it.

MR. CIESLIK: Michael Klingner.

MR. KLINGNER: Michael, Klingner, Quincy, Illinois. Thank you for this public meeting. The tri-state area of Southeast Iowa, Northeast Missouri and West Central Illinois is very concerned with the

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proposed changes to the Missouri River Master Manual.

I'm Mike Klingner, Vice Chairman of the Upper Mississippi, Illinois and Missouri Rivers Association, UMIMRA, and Chairman of the Great River Economic Development Foundation.

The river network of the Illinois, Missouri and Mississippi Rivers are extremely important for the economic well-being of our region. We are an agricultural based economy essential to the nation. The most cost effective and environmental mode of transportation of bulk goods is by barge, and during dry weather conditions the Missouri River provides up to two-thirds of the flow in the Mississippi River between St. Louis and Cairo. Any Missouri River change that damages navigation is unacceptable. An essential criterion of change should be to improve all the basic needs of the river; navigation, flood control and environment.

Miss 4

Instead of experimenting with a pallid sturgeon viagra, also known as a flood pulse, the Corps should focus on the basics; reliable navigation, realistic environmental improvements and adequate flood control. Any change that hurts the basics should not be considered.

Other 6, A,13

27

We respectfully request maintaining the Current Water Control Plan. Over the next few years the Corps will be involved in comprehensive planning for the Illinois and Mississippi Rivers. During planning efforts it would be possible to continue research on side channel simulated flood pulses and off channel simulated environments or other environmental studies. The long range goal of the Water Control Plan should be to develop a system where economic and environmental solutions co-exist. Before any change is made to the management of the Missouri River a Missouri River comprehensive plan should be completed. UMIMRA and GREDF are here to assist the Corps of Engineers to obtain authorization and appropriations in this effort. Thank you very much.

Other 7

COL. DAVID FASTABEND: Thank you, Mr. Klingner.

MR. CIESLIK: Lynn Muench.

MS. MUENCH: Good evening, gentleman. My name is Lynn Muench, and I'm the Vice President of the Midcontinent Office of the American Waterways Operators. AWO represents the towboat and barge operators on our coastal and inland waterways including on the Missouri, Mississippi and Illinois

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Rivers. Today I am here to articulate our industry's concerns with the alternatives presented in the RDEIS and our vision of the future.

The construction of the dams on the Missouri River and the locks and dams on the Mississippi River were begun in the 1930's. Congress mandated the nine foot channels to move agricultural products in a cost effective manner from the landlocked midwest to the coasts and to export markets. Before these rivers became a reliable third coast farmers were held hostage to high rail rates. Farm income was often devastated by these high rates. With the construction of the waterway super highway low cost transportation became available, and rail was forced to compete for business.

Nav 32, 67

This phenomenon, otherwise known as water compelled rates, saves shippers in the region 900 million dollars per year in decreased rail and truck rates when forced to compete. The towboat industry is dismayed that these numbers are not proportionally evaluated for the immediate regional economic benefits or costs. We call on the Corps to correct their methodology to fully reflect the economic hardship the region will face without river navigation.

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Missouri River flow changes would impact the quality of life here in the Upper Mississippi River Basin. The impacts on the Upper Mississippi River are either unknown at this time or grossly underestimated in the RDEIS. The Corps has either not evaluated, considered or released information on the following:

Number one, according to the Missouri Department of Natural Resources split navigation, otherwise known as low summer flows, would render the Mississippi River unreliable in at least 27 out of 100 years. How will this impact the Upper Mississippi economy and the American farmer? Will agricultural exports still be able to be competitive in the world market? Are we ready to put 900 million dollars in savings to shippers, including farmers, due to water-compelled rates in jeopardy on an annual basis?

Miss 4, 19

Number two, the spring rise, otherwise known as a planned spring flood, would vacillate in a short period of time the water levels in the St. Louis Harbor. There is no evaluation in the RDEIS of how fast the St. Louis Corps District could dredge that harbor. How much delay would be caused to the shippers? Why are shippers' increased costs not

Miss 29

30

included in the economic cost?

Number three, the Corps did not take into account the effect of water depletions in the Upper Missouri Basin, therefore, all the data in the RDEIS on water available for flows to support navigation is incorrect. These depletions will negatively impact the reliability of navigation on the Mississippi River.

Other 9

And number four, the loss of jobs in auxiliary businesses such as shippers, terminals, and ports --

COL. DAVID FASTABEND: Mrs. Muench, are you talking about depletions in other alternatives or other depletions?

MS. MUENCH: Other depletions. Loss of jobs in auxiliary businesses such as shippers, terminals and ports were not evaluated. Ripple effect jobs were also not considered.

Other 9

The model to evaluate economic impacts is extremely narrow and grossly underestimates the negative impact on the Upper Mississippi Basin and the Missouri Basin. AWO requests that the Corps re-evaluate their economic analysis. The study must reflect the true impacts to the entire nation including the Upper Mississippi River Basin.

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The waterways industry provides the nation with the safest, most environmentally friendly and cost effective form of transportation. While others have talked about the environment and improving lives, AWO members have taken concrete actions like the required Responsible Carrier Program to protect the river environment, our air and the safety of our employees and citizens. All proposals except the CWCP will have negative environmental impacts and effects that have not been evaluated.

Miss 31, 39

What species will be negatively affected by these proposals? Will there be an increase in sedimentation that will affect our water quality? How much will it cost our communities for air pollution cleanup if the Missouri and Mississippi River are both rendered unreliable and modal shifts occur? How many lives will be lost if product must move off the river and onto the roads or rail? None of these issues are evaluated in the study. If the RDEIS is to represent true national impacts, they must be.

Without further information AWO members strongly urge the Corps to choose CWCP as its preferred alternative and work to create habitat for threatened and endangered species in a way that does

WRH 6

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not endanger America's economic prosperity, the American farmer or the environment.

WRH 6 (con't)

Last I would like to make a few brief comments on the recently released NAS study.

Number one, the NAS indicates that the introduction of non-native species is one of the key reasons for the decline in native species. Eliminating the United States Fish and Wildlife state hatcheries' annual introduction of non-native fish would be a first step to eliminate this problem without manipulating flows.

Fish 14

Number two, NAS suggests that the river should be managed in segments. It is impossible to segment the river below Gavin's Point without building more dams. This is not logical or practical.

Nav 17

Number three, NAS, although not tasked to do so, commented that the 1950's traffic projections for the Missouri River were overestimated. This is not true. Traffic was well on track to reach or exceed expectations before the Corps changed the rules in the 1980's. Since that time business on the river has moved from five year contracts to a spot basis, and docks and terminals have been disinvested. Why would any sane business invest in a

Nav 18

33

transportation system with its future so unpredictable? The adoption of CWCP could positively influence the future of investment and traffic.

I would like to thank the Corps for this opportunity. How we decide to balance multiple uses of this important national treasure will indicate how much we as a nation value economic prosperity, the health of the family farm and our environment.

In summary, AWO remains strongly opposed to any change in the Missouri River reservoir operations that would jeopardize Missouri River or mid-Mississippi navigation and economic benefits to the nation and to the region. Thank you.

COL. DAVID FASTABEND: Thank you, Miss Muench.

MS. MUENCH: One brief thing too I would like to bring to your attention that three legislative bodies in Missouri, Iowa and South Dakota have passed resolutions to really maintain the CWCP, and if you would like that we would be more than happy to get those resolutions for you.

COL. DAVID FASTABEND: I would be glad to see it.

MR. CIESLIK: David McMurray.

MR. MCMURRAY: Good evening. Welcome to the

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Upper Mississippi River. I'm Dave McMurray, and I am serving as Chairman of the Upper Mississippi, Illinois, Missouri Rivers Association. Thank you for adding this hearing to your schedule. We appreciate the opportunity to comment on the proposed revisions to the Missouri River Master Water Control Manual.

Our association is comprised of members along these three rivers. Our members are drainage districts, communities, businesses, associations and individuals. We wish to see improved flood control, navigation, recreational, economic development and environmental conditions on each of these three important components of our national infrastructure. We have previously submitted written comments on the proposed revisions and have had representatives at a series of these meetings.

We do not believe that dismantling our river valley infrastructure is a valid goal, nor is it a valid guiding philosophy for any management change. The rest of the world is improving their river infrastructure while we seem content to allow our system to merely meet the needs of the 1930's and 40's. In fact, without continued maintenance it will not even continue to meet the needs of that long past era.

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We believe the proposed changes in the operating manual would be a great disservice to Middle America and a great disservice to the nation. As President Bush recently suggested, the river system is the spine of the nation. We all know a bad back does not help us get our work done. Whether we are looking at the comparison literally or figuratively, a weak spine is debilitating.

Administrative rules that affect people quite often create a situation where not all will be happy or well served by the results. In this case, however, we have a set of operating procedures in place for many years that have worked well and for the most part have achieved the original intended results. Implementation of the proposed changes to this system in the proposed manner will only serve to weaken the system. It will hurt communities, individuals and political units and will cost great sums in loss of property values, productivity and governmental costs.

Navigation is an enabler for growth, an improved standard of living and for jobs. Where we have modernized the system, growth has been good. The Ohio River, the lower Mississippi River and elsewhere reflect that growth. That growth has been

Nav 51

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broad based. We need to improve the system rather than to limit or destroy it.

Flood control is an enabler of growth, an improved standard of living and jobs. Where we have modernized the system, growth has been good. That growth has been broad based. We need to improve the system rather than ignore or severely weaken it. Additional spring releases will threaten the river valley from Gavins Point to Cairo and possibly beyond.

FC 8

Improved recreation is an enabler for growth. It is the result of an improved standard of living and jobs. Where we have modernized the facilities, growth has been good.

Rec 27

We believe the environment stewardship is an important component in developing these plans. We do not believe that restricting those conditions to the 1800's or any other static time is a proper goal.

EnSp 3,18

We respect the idea of adaptive management in the sense that science and our knowledge of how to utilize it does change. Adaptive management based on speculation is not valid. We do not believe that adaptive management under the control of the current interpretation of the Endangered Species Act is

Other 10, 86

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valid. When any specie, and I repeat any specie, has more rights and protection under the law than a human or a human's habitat we do not have a system that will allow an adaptive management system to work correctly.

Other 10

The above comments apply to the entire river system, the Missouri, Mississippi and Illinois. You have been advised of the various problems that will be exacerbated by any changes in the Master Manual. We only wish to note we are in agreement with the concerns expressed by the Missouri constituency. We believe you are contemplating a huge increase in risk and cost to many for a few acres of possibly improved habitat. We believe you are also putting at risk business development along the Upper Mississippi River and the Illinois River by increasing the magnitude of spring floods, jeopardizing navigation due to the more frequent restricted summer flows and minimizing the impact of future potential depletions.

Other 9,79, 263

The study seems to disregard or minimize those known results for the sake of several possibilities and unknown results. We do not support testing hypotheses and exploring promising changes on the backs of people, their businesses and

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communities. We do not believe the suggested alternatives serve the original Missouri River project's purpose. We do not believe the alternatives proposed are valid. We request that the current Missouri River Master Manual be retained, and thank you for your time and consideration, and for the record, also I submitted a copy of the letter to the President by nine governors of the Missouri River Master Manual for reference in case it has not been admitted as part of the documents, signed by the Governor of Missouri as well as the Governor of Illinois.

Other 6, 127

COL. DAVID FASTABEND: Was that the letter of last June?

MR. MCMURRAY: March.

COL. DAVID FASTABEND: March? Thank you, Mr. McMurray.

MR. MCMURRAY: Thank you.

MR. CIESLIK: Larry Matteson.

MR. MATTESON: Yes. My name is Larry Matteson. I represent the Burlington -- West Burlington Chamber of Commerce, the L.W. Matteson, Incorporated and Matteson Marine Service. We are a marine construction dredging firm and a tugboat service based in Burlington, Iowa.

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I'm here mainly to echo the concerns that have already been brought up about the impact -- the negative impact of the proposals to the navigation on the Mississippi River, and I guess what I'm trying to figure out is why at one time we had what was the pride of the world's navigation system and all of the developing countries that are in competition with us are developing their navigation system and we seem to want to dismantle ours and impede it.

Miss 4

At some point in time I think we're going to have to explain to our grandchildren or great grandchildren why we allowed this to happen.

That's all I have to say. Thanks.

COL. DAVID FASTABEND: Thank you, Mr. Matteson.

MR. CIESLIK: Franco Owens.

MR. OWENS: Good evening. My name is Franco Owens. I am the Chairman of the Grain Merchandising International Trade Transportation Committee, the Iowa Corn Growers Association. The Corn Growers Association is the country's oldest and largest corn growers association, and on behalf of the over 6,000 grower members we bring farmers together to manage issues that advance the Iowa corn industry. Thank you for the opportunity to present testimony on this

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important issue.

Let me start by saying that we all should be concerned when the debate over the Missouri River is characterized as a simple problem where a simple solution will save birds and fish, the alternatives currently under consideration by the Corps. The Iowa Corn Growers support the Current Water Control Plan.

Let's just stop a minute to focus on the effects on the people, farmers and communities downstream. Proposals to recreate the Missouri with a spring rise in split navigation season will do much more than halt barge traffic. Spring flooding will saturate thousands of acres of farmland delaying or denying the farmers the opportunity to plant, essentially taking that fertile land out of production. That would devastate farmers even if the farmer's economy were strong.

FC 8
IntD 8
GW 7

By opting for spring rise the Corps of Engineers would essentially be putting a stamp of approval on putting those farmers out of business. Today when we are struggling to stay in business, a spring rise would force many of us off the land, and that's devastating news for the Western Iowa -- for Western Iowa's many river communities. And in the eyes of some activists the continued viability of

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Iowa's 8 billion dollar agricultural economy is a small price to pay to try to recreate the Missouri River of yesteryear if it means boosting the recreation industry of area neighboring states. The irony of it all is many of these same activists who are advocating for spring rise are the first to cry outrage when they think the family farmer may be threatened.

FC 8
IntD 8
GW 7
(con't)

Let me tell you this. This is more than a threat to family farmer on the Missouri. It's a death penalty. But the damage wouldn't be limited to just agriculture or just Western Iowa. Lowering Missouri levels would also mean increased stress on our roadway system and could halt the grain that currently travels on the Missouri in large semi-trucks that take 14,000 semis to carry the load.

Nav 7, 12, 23, 6

Lower levels in the summer would also mean that hydroelectric power plants can't produce energy, therefore, thereby forcing countless communities to look elsewhere in the already overburdened power grid.

HPower 12, 18
MoPower 1, 3

Perhaps the more appropriate question is should downstream states support other state's tourism industries on a speculative environmental

Other 7,23

42

plan at the expense of long term viability of our economy?

Other 7,23
(con't)

Simple solutions to recreate the Missouri will cause complex problems for everyone along the Missouri. Let's keep the Current Water Control Plan.

COL. DAVID FASTABEND: Thank you, Mr. Owens.

MR. OWENS: And just a word of my own, we were figuring out how much it would cost an internal -- I'm from Central Iowa. It would raise my basis 10 cents a bushel, which on my farm would be about $5,500.00 a year that I would be paying extra to ship grain. Thank you.

COL. DAVID FASTABEND: Thank you.

MR. CIESLIK: Garry Niemeyer.

MR. NIEMEYER: General, good evening. I appreciate the opportunity to testify today on behalf of the Illinois Corn Growers Association. My name is Garry Niemeyer. I raise corn and soybeans in Glenarm, Illinois, and I'm currently the president of the association.

ICGA is opposed to higher reservoir levels in the upper basin lakes of the Missouri River. You may rightfully ask why the opinion of an Illinois

Miss 4

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association should be heard in regard to this issue, and the answer is simple. Our river systems cannot be managed in a way that looks at just a single river or a single portion of a river. The linkage between our rivers and streams is direct, and this is very evident when you look at the relationship of the Missouri, Mississippi and Illinois Rivers.

Farmers in at least a half dozen Midwestern states depend on the efficient operation and dependability of river transportation for their livelihood. The same can be said of all US citizens who benefit from the boost agricultural exports give to our economy and our trade balance. The entire public also benefits from the flow of non-ag goods from road salt to construction materials, which would be significantly more expensive without the benefit of efficient and dependable river transportation.

A good example of the interdependence of our river systems is the importance of the Missouri River water contribution to the Mississippi. During the summer and early fall the Missouri can contribute more than 60 percent of the water flow entering the Mississippi near St. Louis, and we have ample experience in what drought induced changes in the Missouri's water volume can do to river traffic on

Miss 4 (con't)

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both the Mississippi and Illinois River. It can turn sections of the Mississippi into beach property and bring river commerce to a complete halt.

Miss 4 (con't)

Tinkering with higher reservoir levels in the upper basin lakes of the Missouri is like playing roulette with river transportation. It invites increased incidents of interruptions in river traffic. Illinois is a key beneficiary of the water transportation system because more than 45 percent of our state's corn crop and over 50 percent of our soybean crop are exported to customers overseas.

ICGA believes the spring rise approach places undue consideration on upstream recreational and environmental interests. It is my understanding that the concepts of adaptive management has insufficient scientific validation. How can we move forward with such a plan without appropriate conclusive data and scientific acceptance that this route will lead to species recovery?

Other 10, 86, A

I am a farmer, not a scientist, but I do know there are enough wildly varying opinions on the potential benefits of a spring rise that it would be ill-advised to move forward at this time. I find myself asking why if this new theory of river management is correct no one is asking us to apply it

Other 7, 187

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to the upper reaches of the Missouri as well. Why not remove the dams on the upper reaches of the Missouri too.

Other 7, 187 (con't)

Are we prepared to pull the plug on this volume of customers based upon scientific theory? Some supporters of the NAS study will try to tell you they don't advocate the ending of the navigation or the evacuation of the flood plain. ICGA believes what is being proposed is a sure and certain recipe to seriously curtail and possibly end navigation. Restoration of the natural flood pulse, restoration of natural low flows, restoring a meandering channel, restoring cut and fill illuviations, restoring natural riparian vegetation, increasing variations in water temperature and removal of extensive bank stabilization and stream channelization, and when looked at in combination you have a big plan to kill navigation, either innocently or contrived.

Nav 12, 23

I could take up more of your time discussing how many rail cars and semi trucks it would take to move cargo currently moving on this interdependent river system, or I could expound on the increased traffic risks and road maintenance costs associated with truck numbers, or I could point out the increased air pollution related to all these

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trucks, but I think you already know all of this.

In the final analysis it would be nice to return our river to a completely natural state, however, the American public decided decades ago that the diverse benefits of river transportation when managed wisely are too overpowering, too important to our economy and too important to our future.

Other 7

We have imperical data and practical experience documenting the risk of flooding and the potential financial losses resulting from reduced internal drainage. The ICGA supports non-flow species habitat restoration alternatives as a method of addressing species concern, because reduced summer flows would end navigation on the Missouri and threaten barge traffic on the Mississippi River system. The Current Water Control Plan in place seems our best course. Thank you for your attention and opportunity to testify.

FC 6,8
IntD 8

WRH 6

Nav 12

Miss 4

COL. DAVID FASTABEND: Thank you, Mr. Niemeyer.

MR. CIESLIK: Paul Rohde.

MR. ROHDE: Good evening, General, and thank you for this opportunity to speak to you tonight.

My name is Paul Rohde. I am Vice President of the Midwest Area River Coalition 2000, a public

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advocacy coalition I'm sure you're familiar with, and I won't go into any more detail on us, but we do appreciate this Quincy hearing to receive testimony from other constituencies who are just as adversely affected by proposed changes on the Missouri River as those directly along the Missouri. However, we reiterate our concern that these hearings are being held prior to the completion of the adequate Mississippi River impact analysis. Consequently, we support the National Academy of Science's recommendation for a moratorium on any proposed changes to the Missouri River Master Manual at this time.

Other 9, 46

Miss 21, 29, 43

I didn't come here with Mr. Niemeyer, but I would like to expand on this theme of interdependence. Our rivers are an interdependent system, and the fact that we are meeting here north of the confluence of the Missouri and Mississippi Rivers is in itself testament to the interconnection of our rivers, and therefore, the interconnection of its people here in the Midwest and for that matter, even with those who live upriver, and with whom we don't see eye to eye on the issue of the Missouri.

This debate has brought forth attempts to minimize the Missouri as a navigable river and

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downplay the navigation industry's role and the role of related industries to the region. The benefits enjoyed by waterway navigation cannot be viewed as expendable during this process. Water compelled rates from Missouri River navigation decrease transportation costs for approximately the 38 million tons moved by rail each year. The interconnected capacity waterway navigation plays along with rail and truck to transport the commodities that ensure the midwest's economic viability cannot be understated. The Missouri River is a vital economic asset to the region's overall economy and especially to the importance of the Upper Mississippi River system ensuring the midwest's economic status as America's third coast.

Nav 11, 6, 8

Regionwide, navigation affords industry and agricultural producers and consumers 75 to 200 million dollars more in benefits by keeping rail and truck rates competitive. Navigation on the Mississippi is an industry that creates and supports over 400,000 jobs to this region and transports over an average of 100 million tons of commodities. Almost 70 percent of our agricultural exports travel this river system supporting one of the positive balances of trade in a time of economic uncertainty.

Nav 7, 8

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Navigation benefits are enjoyed by everyone, all of us, consumers, through lower prices for products, American workers, miners and farmers by reducing their transportation costs, manufacturers through lower raw material costs made available by inexpensive transport and less expensive distribution of products and to shippers. And that money saved goes back to the community here where we live and work, back to home and car purchases, to local stores for groceries, gasoline, clothing and entertainment, to healthcare and insurance, to employing full and part-time help. For farmers it goes to equipment, to feed stores, and of course, that money saved is also returned in local, state and federal taxes.

Now as far as the Quincy area citizens are concerned, any changes to the CWCP for an experiment on the Missouri River is also an experiment on the Mississippi River, and those who make their livelihood here, both up and down the river of the confluence. You cannot segment a river, despite the NAS report's suggestion. Any action taken on one portion will have effects on the entire river system as a connected entity. Jeopardizing navigation on the Missouri will have adverse effects on the Mississippi. Effectively land locking the Upper

Miss 4

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Mississippi region with lower water flows and higher reservoir levels under all, but the CWCP proposals will be a detriment to our economy, environment and standards of living.

Miss 4 (con't)

The elimination of Missouri River navigation would also have detrimental effects to the Mississippi River, both up and down river. By jeopardizing the average of 100 million tons traveled along the Upper Mississippi River system each year with lower water flows and higher reservoir levels we could be sentencing this region to almost four million additional trucks on our region's highways. You can imagine the negative environmental impact this would have, not to mention the additional construction and repairs, accidents and fatalities that would ensue on already over-extended highways. These impacts cannot be discounted when considering all the effects of changes to the CWCP.

We would like to just say this recently released report from the NAS confirmed the glaring questions still left unanswered regarding solutions to the challenges facing the Missouri River. Certainly, human lives, not only livelihood, but the possible threat to life itself, if these changes to the Missouri River should be employed, should have a

Other 14

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higher priority over unknown and untested results that may occur to the ecosystem.

Other 7

Recreation is certainly an interconnected entity to the river, and it deserves mention. The Corps, however, values recreation according to a different methodology than navigation resulting in misleading statistics. We have made our points on this at previous hearings, and my only addition to that would be if the current water flow plan allowed recreation to grow and prosper into an $5 million dollar industry as the Corps purports then the CWCP can't be all that bad.

Other 23

MARC 2000 opposes five of the six alternatives and believes that the CWCP provides the best alternative to meet all Congressionally authorized purposes, including navigation, flood control, recreation, hydropower and fish and wildlife needs.

To close, we respectfully call for a moratorium on any revision and withdrawal of the Service's Biological Opinion for review against the documentation provided by the NAS. Thank you.

Other 46

COL. DAVID FASTABEND: Thank you, Mr. Rohde.

MR. CIESLIK: Shawn Valter.

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MR. VALTER: I am Shawn Valter from Quincy, Illinois, and I'm the manager of the Adams County Farm Bureau. We are an agricultural association representing 1,600 farm families here in and around the Quincy area. These farm families depend greatly on the river system out here to export their locally grown commodities to the world markets.

The proposed changes to the Current Water Control Plan for the Missouri River could have a severe negative impact on our already financially burdened farm families. In times of drought, lower summer flows would limit navigation, essentially stopping the barge traffic on the Mississippi River.

Miss 4

The Farm Bureau is also concerned with adaptive management practices, which would create too much freedom for the Corps to adjust flow management without any significant input from the public.

Other 3,10

We appreciate the opportunity to comment on this issue and oppose any revision that would be detrimental to our farm families. We are in support of the Current Water Control Plan for the Missouri River. Thank you.

COL. DAVID FASTABEND: Thank you, Mr. Valter.

MR. CIESLIK: Ed VanderMeulen.

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MR. VANDERMEULEN: Good evening. My name is Ed VanderMeulen. I am from Morrison, Illinois, and I am the Area Distribution Manager for the River Region of Lafarge North America.

Lafarge North America is a leading producer of building materials in our country. We are dedicated to providing the very best products and services to build our country, and we are strongly committed to our environment. We transport millions of tons annually on the United States inland waterway system. We have numerous plants and distribution terminals on the rivers. Our employees live and work in riverfront communities. The water that's sustains our lives comes from our rivers.

The Missouri River is very important to us. We have a cement plant at Sugar Creek, Missouri and a distribution terminal in Omaha, Nebraska. The river is a natural and an environmentally preferable supply line from our plant to our terminal, one we have used responsibly for the last 36 years. Our manufacturing processes particularly at Sugar Creek require a variety of bulk materials and fuel which are transported in the most efficient and environmentally responsible manner on the rivers. We have invested substantially at this plant and in our

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specialized barge fleet to increase our abilities to supply building materials into the upper Midwest. Lafarge North America has the need to transport annually approximately half a million tons on the Missouri River, bringing in materials and fuel and moving finished products to the market. We can only do so if the river is navigable on a consistent basis.

River transportation allows us to produce and sell our products competitively. River transportation keeps costs down for everybody. It provides a competitive balance with other modes of transportation. It's good business, and it's good for the consumer. As such, it is beneficial to all of us. But even more importantly, please consider that a gallon of fuel moves one ton, 514 miles by barge, 202 miles in a rail car and 59 miles by truck. And as we have heard many times, a barge hauls the same as 15 rail cars or 58 semi-trailer trucks. For every ton we must haul by truck we must use 826 percent more fuel, and exhaust emissions increase by 709 percent, and we contribute to the national dilemma of truck tire disposal and vehicular accidents. River transportation is good for the environment in a very substantial way.

Nav 6, 8, 23

55

These benefits are not limited to the Missouri River Basin. The lower Mississippi River, the main stem if you will, of the Ohio River, the Upper Mississippi, the Missouri and the Illinois and all their navigable tributaries receives a substantial amount of its flow from the Missouri. Without that flow the effects spread over a wider area. From Pennsylvania, Minnesota and South Dakota to the Gulf of Mexico higher costs, elimination or reduction of commerce, more fuel and more pollution, and yes, more truck tires.

Miss 4, 39

A fractured navigation system on the Missouri damages, if not eliminates, the economic viability of this valuable resource while resulting in predictable and undesirable environmental impacts. Lafarge North America strongly supports the Current Water Control Plan for the operation of the Missouri River. Thank you.

COL. DAVID FASTABEND: Thank you, Mr. VanderMeulen. I never heard those statistics before. Those are interesting.

MR. CIESLIK: Bill Lay.

COL. DAVID FASTABEND: Mr. Lay, did you turn your card in late or is my staff doing this to you?

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MR. LAY: No. No, sir, I turned it in a little late. General, I'm sorry. My name is Bill Lay. I farm near Fayette, Missouri, and I'm a member of the Missouri Levee and Drainage District Association.

I want to thank your staff for the way they have handled these hearings and this study. Not only have they answered my -- been available for my phone calls, taken time to discuss matters with me, but they have placed on the web so we can unload them the flows from which Roy McAllister has made his charts so I can question him about his charts and the biological opinion that was made by the Fish and Wildlife, as long as the Fish and Wildlife keeps their website up, but I understand it's now back on, and the transcripts of the public hearings, and of course finally, the report of the science group that just came out.

I would like to address first the opinion of the Fish and Wildlife since that is the basic documents which we are addressing here. They sent this opinion to various experts to examine. Dr. Paul Hurdland of Utah stated in his letter the life history needs of the pallid sturgeon appear to be poorly understood, and then he said a generally

EnSp 17,37

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accepted relationship is based upon little data. He states the biologists still don't know what the key habitats of the pallid sturgeon are, and in discussing spawning cues, the only citation on the spawning cues was merely a review paper or more a review paper than actual research and that many biologists thought that the Colorado Pike Minnow also needed high flows to cue spawning, but we have found that they spawn even in years with no spring flows,, suggesting that cueing may not be all that important.

EnSp 17, 37 (con't)

David Galliant, who is with the University of Missouri, stated in his letter there is a great deficiency in scientific knowledge of flow and habitat requirements for the pallid sturgeon, and then he also states detailed environmental requirements of the multiple listed species are poorly known. Then Ken Labinski of the Upper Midwest Environmental Services Center stated, "I am not aware of any quantitative or qualitative relationship between flows and habitat quality on the Missouri River."

EnSp 17

The question implies that a single universal relationship exists between discharge and habitat quality. I will not expect habitat quality

WRH 22

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to vary with discharge in the same way everywhere on the Missouri River system. Likewise, habitat quality will not be the same for different habitat types and the same segment of river for a single discharge.

WRH 22 (con't)

For example, flood flows in the lower Yellowstone will produce large areas of fast, deep water as well as extensive areas of standing back water, and flooded areas comparable flows in a segment downstream from Sioux City will probably only produce extensive areas of fast, deep water.

So I think -- and I have another quote from Kenneth Labinski of the United States Geologic Service, and he states, "There are many unknown uncertainties involved in the primary question", and then he lists four or five of those uncertainties. Now why then are we doing this? Okay. Thank you. I have to end.

COL. DAVID FASTABEND: All right, Mr. Lay. Remember, if you have material, you can send it to my office, and we will review it. Does anyone else want to make a comment? Okay.

Mr. Bilderback, I would be glad to talk to you some more after the meeting to hear about your issues you brought up.

In closing, I would like to remind you that

the hearing administrative record will be open through 28 February 2002 for anyone wishing to submit written, fax or electronic comments. Also, if you want to be on the mailing list or receive a copy of the transcript, you need to fill out one of the cards available at the table by the entrance.

Ladies and gentlemen, I thank you for being here tonight and providing us with valuable information, which I can assure you will be considered in making a decision on the Master Manual process and plan. Thank you very much.

(END OF PROCEEDINGS)

STATE OF ILLINOIS)
) SS
COUNTY OF ADAMS)

C E R T I F I C A T E

I, Kathy A. Genenbacher, CSR, a Notary Public in and for the County of Adams, State of Illinois, do hereby certify that heretofore, to-wit, the above proceedings were reported stenographically by me on the 23rd day of January, A.D., 2002, at the hour of 7:00 P.M., at the Quincy Holiday Inn, 201 South Third Street, in the City of Quincy, County of Adams, State of Illinois.

In testimony thereof, I have hereunto set my hand and affixed my notarial seal this 30th day of January, A.D., 2002.

Notary Public
Certified Shorthand Reporter

My Commission Expires
June 28, 2001

PUBLIC COMMENT
U.S. ARMY CORPS OF ENGINEERS
MISSOURI RIVER MASTER MANUAL RDEIS HEARING
MICHAEL D. WELLS, CHIEF OF WATER RESOURCES
STATE OF MISSOURI
QUINCY, ILLINOIS—JANUARY 23, 2002

Good evening, my name is Mike Wells. I am Chief of Water Resources for the State of Missouri. Thank you for allowing me an opportunity to present additional testimony on this most important issue to the State of Missouri. On Monday night of this week D. K. Hirner, Deputy Chief of Staff for Governor Bob Holden, presented comments for the Governor at the pubic hearing in Cape Girardeau, Missouri. I will take this opportunity to provide additional information in support of the Governor's testimony.

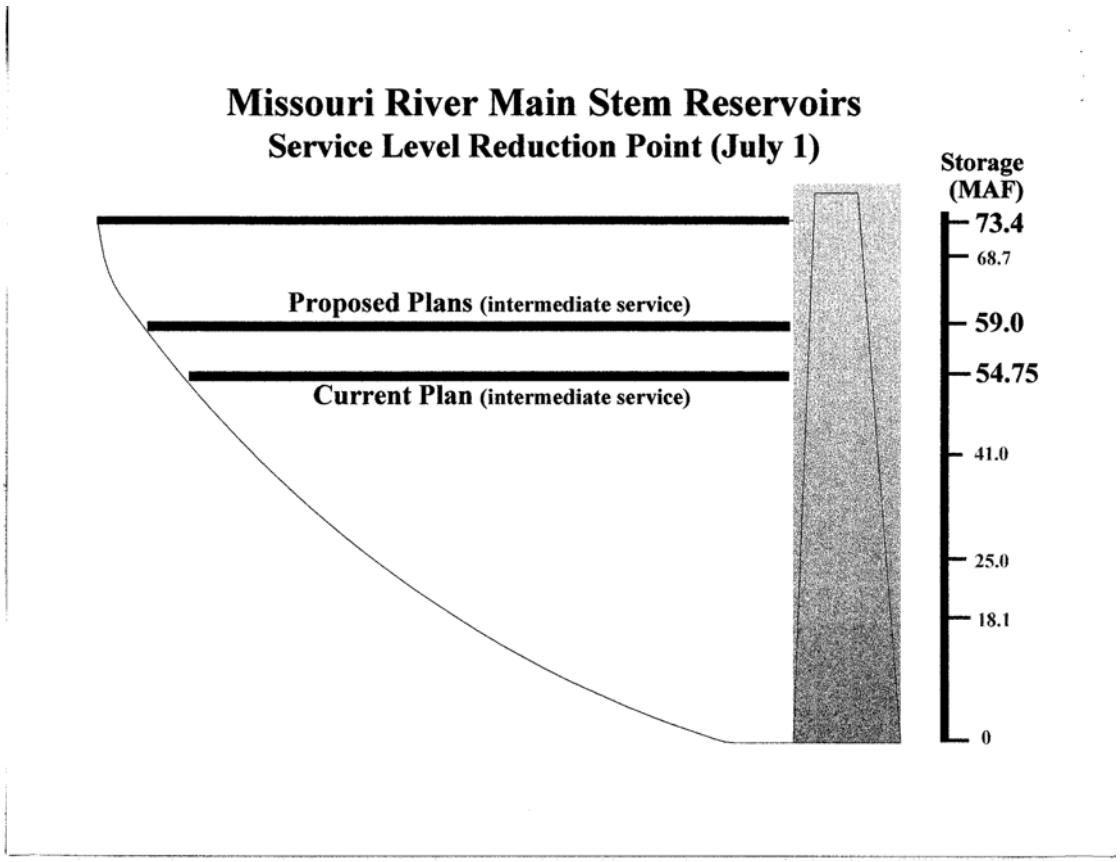
One of the points in Governor Holden's comments was his opposition to the proposed reductions of downstream flows. In support of the Governor's position and for the public record I am submitting two schematic drawings which clearly demonstrate how all five of the new plans will shift water to the upper basin reservoirs by setting triggers for reducing service to downstream users significantly higher than the current plan. These higher triggers will significantly increase the frequency in which flow support for downstream uses will be reduced. These triggers must be drastically lowered in order to honor the Federal Government's commitment to protect Mississippi River commerce and to maintain it as a reliable and cost effective transportation mode.

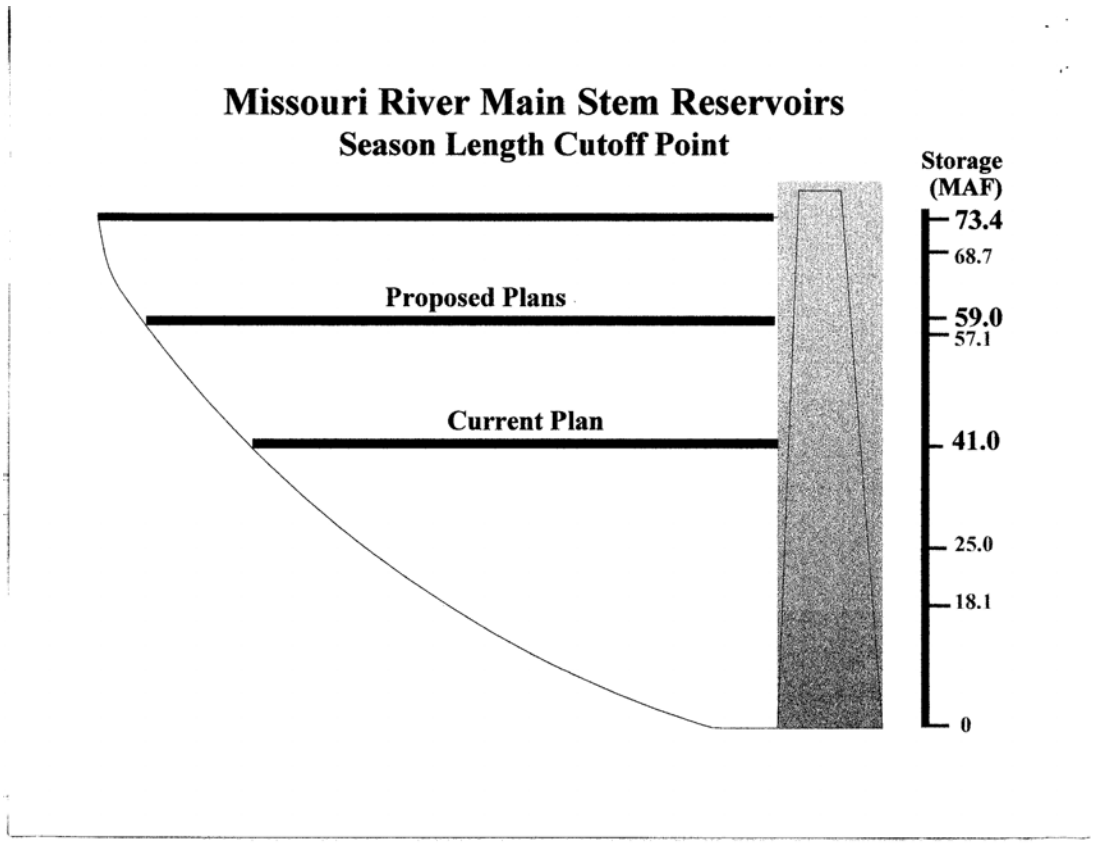
In the Governor's comments, he also expressed his displeasure that the impacts the five new plans would have on Mississippi River navigation have not been thoroughly analyzed and displayed in the RDEIS for public review. As an example of the adverse impacts, I have attached two graphs showing how Mississippi River navigation would have been impacted the past two years had the Modified Conservation Plan (MCP) been in operation. Unfortunately for Mississippi River interests, the Modified Conservation Plan is imbedded in all five of the new plans under consideration.

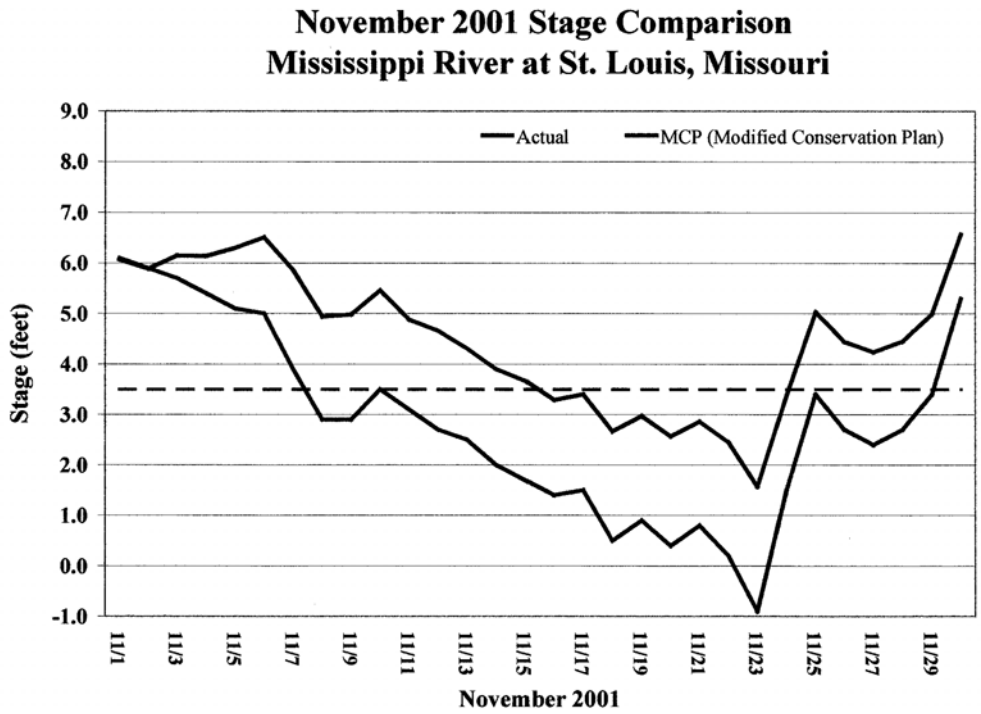
In addition, Missouri is committed to improving the environmental health of the Missouri River while ensuring the economic security of its citizens.

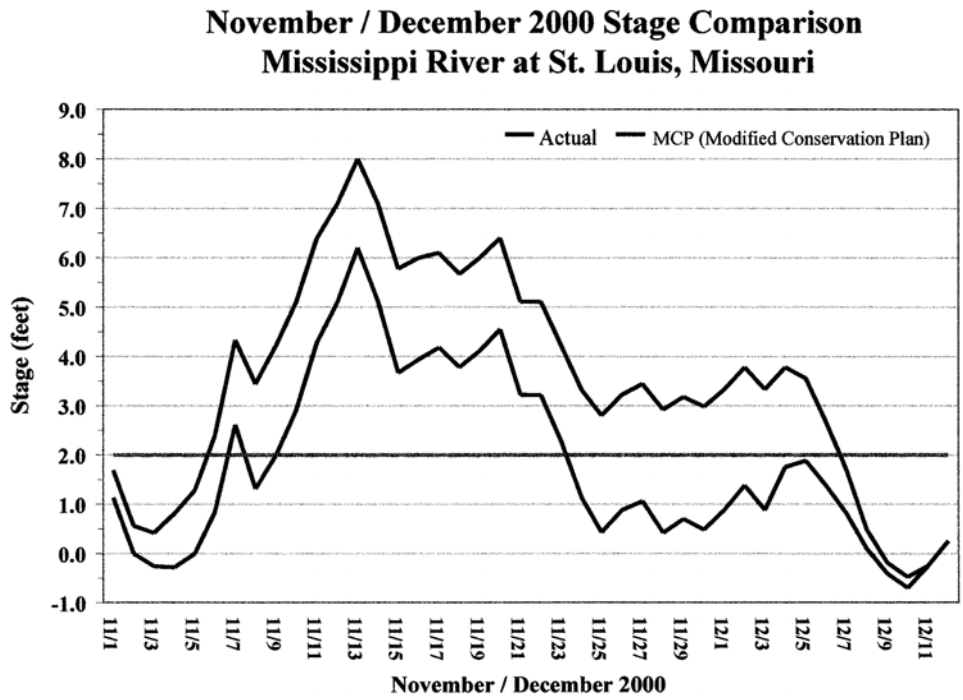
Although there have been some successful habitat restoration projects on the Missouri River, there are many additional opportunities to greatly expand these efforts. The St. Louis District has over 20 years of experience in the use of environmental river engineering to create and improve fish and wildlife habitat on the Mississippi River without implementing flow alterations. Governor Holden has encouraged the Northwest Division to consider implementing habitat restoration projects similar to those undertaken by the Corps' St. Louis District along the Mississippi River. These projects have proven to be tremendously effective. The Governor requests that these same engineering techniques be used on the Missouri River to restore habitat. I am submitting for the record the most recent copy of the St. Louis District's handbook entitled "*Environmental River Engineering on the Mississippi*".

Thank you again for the opportunity to comment.


Missouri River Main Stem Reservoirs
Service Level Reduction Point (July 1)
Storage (MAF)
73.4
68.7
Proposed Plans (intermediate service)
59.0
54.75
Current Plan (intermediate service)
41.0
25.0
18.1
0


Missouri River Main Stem Reservoirs
Season Length Cutoff Point
Storage (MAF)
73.4
68.7
Proposed Plans
59.0
57.1
Current Plan
41.0
25.0
18.1
0


November 2001 Stage Comparison
Mississippi River at St. Louis, Missouri
Actual
MCP (Modified Conservation Plan)
Stage (feet)
9.0
8.0
7.0
6.0
5.0
4.0
3.0
2.0
1.0
0.0
-1.0
11/1
11/3
11/5
11/7
11/9
11/11
11/13
11/15
11/17
11/19
11/21
11/23
11/25
11/27
11/29
November 2001


November / December 2000 Stage Comparison
Mississippi River at St. Louis, Missouri
Actual
MCP (Modified Conservation Plan)
Stage (feet)
9.0
8.0
7.0
6.0
5.0
4.0
3.0
2.0
1.0
0.0
-1.0
11/1
11/3
11/5
11/7
11/9
11/11
11/13
11/15
11/17
11/19
11/21
11/23
11/25
11/27
11/29
12/1
12/3
12/5
12/7
12/9
12/11
November / December 2000

Oral Testimony: Public Hearing
Revised Draft Environmental Impact Statement
Missouri River Master Water Control Manual
United States Army Corps of Engineers
Northwest Division

Good evening. My name is Frank Becker. I am an agricultural producer in Bowling Green, MO. I, with my brother produce corn, soybeans, wheat, cattle and hogs on 2000 acres. I am here tonight representing the Missouri Corn Growers Association. I am on the MCGA Board of Directors and serve as Vice President . MCGA is a grassroots organization representing corn growers across Missouri.

MCGA will support the current water control plan because it is the only feasible alternative presented by the Corps of Engineers. All the other alternatives that are being presented would be absolutely devastating for agriculture.

We are opposed to what is referred to as the "spring rise". First, increasing water releases would flood or decrease drainage on thousands of acres in the Missouri River bottoms. This proposed "controlled flood" could be devastating not only for potential massive flooding but also delayed plantings due to internal drainage problems.

It is also proposed that these increased spring flows would be offset in the late summer by a split navigation season. During July through September, water releases would fall below levels needed to maintain navigation. This would end navigation on the Missouri River.

Now we come to why a farmer on the Mississippi River is interested in the Missouri River. As you know, barges are a low cost transportation alternative for agricultural commodities and inputs. The Missouri and Mississippi Rivers are a river system. The barge transportation is a system that requires that both the Missouri River and Mississippi River be maintained and supported as a system. The Missouri River is also a major source of water for the Mississippi River. During the drought of 1988, Missouri River discharges accounted for 63% , thats almost 2/3, of the water flowing past St. Louis from July through October. If planned flow reductions by the Corps would coincide with another summer drought, navigation on the Upper Mississippi would be interrupted, costing the Nation's farmers and industries millions of dollars a day. Navigation on the River system supports more than 400,000 jobs and over $1.5 billion of corn is shipped down the river on barges. Farmers depend on river transportation for their livelihood and the U.S. depends on us for exports and trade.

Barge transportation place competitive pressure on regional rail rates. It has been demonstrated numerous times that in areas throughout the country that do not have access to barge transportation, rail rates are higher. In your, the Corps analysis, it's estimated that barge competition reduces rail rates in the Missouri Basin by up to $200 million annually. The importance of barge competition is further heightened as the rail industry continues to consolidate.

We also have concerns about what the Corps calls "adaptive management". Through this proposed adaptive management, the Corps would be given considerable power to make flow release adjustments. These adjustments would be made primarily through consideration of one interest, the endangered species. If it is determined by the government agencies that for the sake of the species it is needed, the highest spring rise and lowest summer flows could be implemented. We cannot assume that any other alternative would be proposed and accepted by the Fish and Wildlife Service. They have single mindedly always proposed a spring rise and split navigation season as the ***only*** alternative that would benefit the species. They have not proposed any other reasonable and prudent alternative.

MCGA is concerned that adaptive management will result in the loss of the public's ability to be involved in the decisions involving flow management for the Missouri River. It does not follow the law which is provided by the National Environmental Protection Act (NEPA) which allows for public input. Through adaptive management, the Corps assumes power not given to it by Congress. Congress did not intend for the Corps to assume the power to implement any changes they feel are necessary or want to try as an experiment.

In summary, a spring rise is unwarranted and unscientific. It threatens farms and towns with increased risks of flooding and financial losses through reduced internal drainage. The reduced summer flows would end navigation on the Missouri and threaten barge traffic on the Mississippi river.

Thus, MCGA supports the current water control plan. Another way to put it is: IT AIN'T BROKE SO WAY ARE WE TRYING TO FIX IT:

ILLINOIS FARM BUREAU®

"Improve the economic well-being of agriculture and enrich the quality of farm family life."

Comments on Behalf of the Illinois Farm Bureau®
Re: Missouri Master Water Control Manual
January 23, 2002 -- Quincy, Illinois

Good evening. My name is Kevin Rund. I am Director of Local Government and Transportation Specialist for the Illinois Farm Bureau, our state's largest general farm organization with over 350,000 members.

Illinois Farm Bureau opposes the flow changes now being considered. We are not simply opposed to change, but with the exception of the current master plan, none of the options proposed are acceptable.

Our policy supports:

> *"Efforts to come to a mutually acceptable revision to the Missouri River Master Water Control Manual while protecting against proposals that would regulate the river's flow to the detriment of the waterway navigation system."*
>
> *"We will urge the Corps of Engineers to adopt water flow management policies that avoid the flooding of farmland situated below any reservoir or dam managed by the Corps."*

Because this evening's emphasis is focused on impacts to the Mississippi River, I'll highlight only two key reasons for our opposition to the current proposals for change.

#1) The changes proposed on the Missouri would cause negative impacts in Illinois.

Being on the eastern side of the Mississippi, not many of our members would be directly affected by the flooding caused by the proposed spring rise. But, every one of our members would be impacted by the summer low flows and split navigation season being considered. And that goes for all the other Upper Mississippi River states.

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Disrupting navigation on the Missouri would cause ripple effects throughout the region and across modes of transportation. We'd feel the bite in Illinois and it would come in the form of higher transportation costs due to lowered competition. It would come in the form of worsened air pollution because of more trucks and trains operating in what is already a non-attainment area. And in dry years, it would come in the form of lost jobs, wages, income and tax revenue because of inefficient navigation on the Mississippi.

The Corps has to look beyond the Missouri basin to measure the full impact of these proposals to change the manual.

#2) Experimentation should be contained, not pervasive.

The National Academy of Science made it clear—mimicking natural flows in the Missouri River would not guarantee recovery of the three species in question. It would require experimentation to learn how effective that approach might be. But that experimentation should be conducted on a limited scale in controlled settings. It would cost less to create hundreds of acres of habitat that could be studied than would be the cost forced on area residents and economies through system-wide experimentation.

The "Adaptive Management" approach included among these proposals would be experimentation on a massive scale, with the Missouri basin the petrie dish. It is a trial-and-error approach that risks peoples' well-being and livelihoods. If done here, we're concerned where the Corps might apply that approach next? It would not be acceptable in Illinois and we support our counterparts across the Mississippi in saying that it is not acceptable in Missouri.

There are smaller scale approaches to experimentation that would risk far less. The Corps should look to those first.

In conclusion, I want to commend the Corps for its persistence in attempting to find a balance among the myriad of interests in the Missouri basin. I do urge you to not adopt measures that would increase flooding or reduce the efficiency of navigation on either the Missouri or Mississippi Rivers. Instead, for now, continue operating under the Current Water Control Plan.

Thank you for listening.

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UPPER MISSISSIPPI, ILLINOIS & MISSOURI RIVERS ASSOCIATION

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Illinois Valley Flood Control Association
Missouri Levee and Drainage District Association

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Quincy

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January 23, 2002

Rock Island District
Corps of Engineers
P O Box 2004
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Rock Island, IL 6104-2002

RE: Public Meeting January 23, 2002
Missouri River Master Manual Public Meeting

Gentlemen:

Thank you for the Public Meeting. The tri-state area of Southeast Iowa, Northeast Missouri, and West Central Illinois is very concerned about the proposed changes to the Missouri River Master Manual. I am Mike Klingner, vice chairman of the Upper Mississippi River, Illinois, and Missouri Rivers Association (UMIMRA), and chairman of the Great River Economic Development Foundation (GREDF).

The River network of the Illinois, Missouri, and Mississippi Rivers are extremely important for the economic well being of our region. We are an agriculturally based economy, essential for the Nation. The most cost-effective and environmentally benign mode of transportation of bulk goods is by barge. During dry weather conditions, the Missouri River provides up to two-thirds of the flow in the Mississippi between St. Louis and Cairo. Any Missouri River change that damages navigation is unacceptable. An essential criterion of change should be to improve all the basic needs of the river—Navigation, Flood Control, and the Environment.

Instead of experimenting with a pallid sturgeon viagra, also known as a flood pulse, the Corp should focus on the basics—reliable navigation, realistic environmental improvements, and adequate flood control. Any change that hurts the basics should not be considered.

We respectfully request maintaining the Current Water Control Plan (CWCP). Over the next few years, the Corp will be involved in Comprehensive Planning for the Illinois and Mississippi River. During planning efforts it would be possible to continue research on side channel simulated flood pulses, off-channel simulated environments, or other environmental studies. The long-range goal of the CWCP should be development of a system where economic and environmental solutions coexist. Before any change is made to the management of the Missouri River, a Missouri River Comprehensive Plan should be completed. UMIMRA and GREDF are here to assist the Corp of Engineers to obtain authorization and appropriations in these efforts.

Thank you.

Very truly yours,

UPPER MISSISSIPPI, ILLINOIS & MISSOURI RIVERS ASSOCIATION

Michael D. Klingner

Michael D. Klingner, P.E.
Vice-Chairman

Oral Testimony:
Lynn M. Muench
The American Waterways Operators

Missouri River RDEIS Public Hearing
Quincy, Illinois
January 23, 2002

My name is Lynn Muench and I am Vice President of the Midcontinent office of The American Waterways Operators. AWO represents the towboat and barge operators on our coastal and inland waterways system, including on the Missouri, Mississippi, and Illinois Rivers. Today, I'm here to articulate our industry's concerns with the alternatives presented in the RDEIS and our vision of the future.

The construction of the dams on the Missouri River and the locks and dams on the Mississippi River were begun in the 1930s. Congress mandated 9-foot channels to move agricultural products, in a cost-effective manner, from the landlocked Midwest to the coasts and to export markets. Before these rivers became a reliable "third coast," farmers were held hostage to high rail rates. Farm income was often devastated by these high rates. With the construction of the water superhighway, low-cost transportation became available and rail was forced to compete for business. This phenomenon,

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otherwise known as "water-compelled rates", saves shippers in the region ~~between~~ ~~75-200~~ 900 million dollars per year in decreased rail and truck rates when forced to compete ~~in the Missouri basin alone~~. The towboat industry is dismayed that these numbers are not proportionally evaluated for the immediate and real regional economic benefits or costs. We call on the Corps to correct their methodology to fully reflect the economic hardship the region will face without river navigation.

Missouri River flow changes would impact the quality of life in the upper Mississippi Basin. The impacts on the upper Mississippi River are either unknown at this time or grossly underestimated in the RDEIS. The Corps has either not evaluated, considered, or released information on the following:

1. According to the Missouri Department of Natural Resources, split-navigation, otherwise known as low summer flows, would render the Mississippi River unreliable in at least 27 out of 100 years. How will this impact the upper Mississippi's economy and the American

farmer? Will agricultural exports still be able to be competitive in the world market? Are we ready to put the 900 million dollars in savings to shippers, including farmers, due to water-compelled rates in jeopardy on an annual basis?

2. The "spring-rise," otherwise known as a "planned" spring flood, would vacillate, in a short period of time, the water levels in the St. Louis Harbor. There is no evaluation in the RDEIS of how fast the St. Louis Corps District could dredge the harbor. How much delay will this cause shippers? Why are shippers' increased costs not included in economic costs?

3. The Corps did not take into account the effect of water depletions in the upper Missouri basin; therefore, all the data in the RDEIS on water available for flows to support navigation is incorrect. These depletions will negatively impact the reliability of navigation on the Mississippi River.

4. The loss of jobs in auxiliary businesses such as shippers, terminals, and ports was not evaluated in the RDEIS. Ripple-effect job loss was also not considered.

The model to evaluate economic impacts is extremely narrow and grossly underestimates the negative impact to the Missouri and Mississippi basins. AWO requests that the Corps reevaluate their economic analysis. The study must reflect the true impacts to the entire nation including the upper Mississippi River basin.

The waterways industry provides the nation with the safest, most environmentally friendly, and cost-effective form of transportation. While others have talked about the environment and improving lives, AWO members have taken concrete actions like its required Responsible Carrier Program to protect the river environment, our air, and the safety of our employees and citizens. All proposals, except the CWCP, will have negative environmental effects that have not been evaluated. What species will be negatively affected by these proposals? Will there be an increase in sedimentation that will affect water quality? How much will it cost our

communities for air pollution cleanup if the Missouri and Mississippi are both rendered unreliable and modal shifts occur? How many lives will be lost if product must move off the water and onto the roads or rail? None of these issues are evaluated in the study. If the RDEIS is to represent true national impacts, they must be. Without this information, AWO members strongly urge the Corps to choose CWCP as its preferred alternative and work to create habitat for threatened and endangered species in a way that does not endanger America's economic prosperity, the American farmer and the environment.

Last, I'd like to make a few brief comments on the recently released NAS study.

1. NAS indicates that introduction of nonnative species is one of the key reasons for the decline in native species. Eliminating USF&WS and state hatcheries annual introduction of nonnative fish could be a first step to eliminate this problem without manipulating flows.
2. NAS suggests the river should be managed in segments. It is impossible to segment the river below Gavin's Point without building more dams. This is not logical or practical.

3. NAS, although not tasked to do so, commented that the 1950's traffic projections for the Missouri River were overestimated. This is not true. Traffic was well on ~~its way of reaching~~ track to reach or exceed expectations before the Corps changed the rules in the 1980s. Since ~~1982,~~ that time business on the river has moved from 5-year contracts to spot basis and docks and terminals have been disinvested. Why would any sane business invest in a transportation system with its future so unpredictable? The adoption of CWCP could positively impact future investment and traffic.

I'd like to thank the Corps for this opportunity. How we decide to balance the multiple uses of this important national treasure will indicate how much we, as a nation, value economic prosperity, the health of the family farm, and our environment. **In summary, AWO remains strongly opposed to any change in Missouri River reservoir operations that will jeopardize Missouri River or mid-Mississippi River navigation and its economic benefits to the region and nation.**

USACE Public Hearing
Quincy, IL

January 23, 2002

Welcome to the Upper Mississippi River. Thank you for adding this hearing to your schedule. We appreciate the opportunity to comment on proposed revisions to the Missouri River Master Water Control Manual.

Our Association, UMIMRA, is comprised of members along these three rivers. Our members are drainage districts, communities, businesses, associations and individuals. We wish to see improved flood control, navigation, recreational, economic development, and environmental conditions on each of these three important components of our national infrastructure. We have previously submitted written comments on the proposed revisions and have had representatives at a series of these meetings.

We do not believe that dismantling our river valley infrastructure is a valid goal nor is it a valid guiding philosophy for any management change. The rest of the world is improving their river infrastructure while we seem content to allow our system to merely meet the needs of the 1930s and 40s. In fact without continued maintenance it will not even continue to meet the needs of that long past era.

We believe the proposed changes in the operating manual would be a great disservice to Middle America and a great disservice to the nation. As President Bush recently suggested, the river system is the spine of the nation. We all know a bad back does not help us get our work done. Whether we look at the comparison literally or figuratively, a weak spine is debilitating.

Administrative rules that affect people, quite often create a situation where not all will be happy or well served by the results. In this case, however, we have a set of operating procedures in place for many years that have worked well, and, for the most part, have achieved the original intended results. Implementation of the proposed changes to this system in the proposed manner will only serve to weaken the system. It will hurt communities, individuals, and political units and will cost great sums in loss of property values, productivity and governmental costs.

Navigation is an enabler for growth, an improved standard of living and jobs. Where we have modernized the system, growth has been good. The Ohio River, the lower Mississippi River and elsewhere reflect that growth. That growth has been broad based. We need to improve the system rather than limit or destroy it.

Flood control is an enabler of growth, an improved standard of living and jobs. Where we have modernized the system, growth has been good. That growth has been broad based. We need to improve the system rather than ignore or severely weaken it. Additional spring releases will threaten the river valley from Gavins Point to Cairo and possibly beyond.

Improved recreation is an enabler for growth. It is the result of an improved standard of living and jobs. Where we have modernized the facilities growth has been good.

We believe that environmental stewardship is an important component in developing these plans. We do not believe that restricting those conditions to the 1800s or any other static time is a proper goal.

We respect the idea of adaptive management in the sense that science, and our knowledge of how to utilize it does change. Adaptive management based upon speculation is not valid. We do not believe that adaptive management under the control of the current interpretation of the Endangered Species Act is valid. When any specie, and I repeat any specie, has more rights and protection under the law than a human, or a human's habitat, we do not have a system that will allow an adaptive management system to work correctly.

The above comments apply to the entire river system, the Missouri, Mississippi and Illinois. You have been advised of the various problems that will be exacerbated by any changes in the Master Manual. We only wish to note that we are in agreement with the concerns expressed by the Missouri constituency. We believe you are contemplating a huge increase in risk, and cost to many for a few acres of "possibly" improved habitat. We believe you are also putting at risk business development along the upper Mississippi River and the Illinois River by increasing the magnitude of spring floods, jeopardizing navigation due to more frequent restricted summer flows, and minimizing the impact of potential future depletions.

The study seems to disregard or minimize those known results for the sake of several possibilities and unknown results. We do not support "testing hypotheses and exploring promising changes" on the backs of people, their businesses and communities.

We do not believe the suggested alternatives serve the original Missouri River project's purpose. We do not believe the alternatives proposed are valid. We request that the current Missouri River Master Manual be retained.

Thank you for your time and consideration.

David McMurray, Chairman
Upper Mississippi, Illinois & Missouri Rivers Association

March 22, 2001

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

As governors of states along the Mississippi River, we are writing to express our concern about management changes proposed for the Missouri River. Major changes are being considered without documentation of their full effects or input from the impacted states outside the Missouri River Basin. The Missouri River flows into the Mississippi River immediately upstream of the second largest inland port in our nation – St. Louis. The stretch of the Mississippi River between St. Louis, Missouri and Cairo, Illinois is often referred to as the "bottleneck reach" because of the need for flow support to provide for transportation needs. During periods of low flow in the Mississippi River, the Missouri River provides as much as two-thirds of the water to the "bottleneck reach" of the Mississippi River supporting navigation and other beneficial uses of the river.

The U.S. Army Corps of Engineers is preparing a new plan for the operations of the Missouri River. The proposals under serious consideration include higher reservoir levels that would actually decrease flexibility in managing this complex system for flood control and other project purposes. The Corps' Northwest Division's "Preferred Alternative" would shorten the navigation season on the Missouri River by 27 days and reduce the reliability of navigation on the Mississippi River during a critical period in the late fall. An analysis of the last 100 years of records shows that, under this alternative, fall cutbacks would have occurred in 35 out of 100 years. This is over four times more often than under the current water management plan. In addition, six years would have had no navigation season compared with one under the current plan. Had this proposal been in effect during the year 2000, water levels at St. Louis and in the "bottleneck reach" of the Mississippi River would have been two to three feet lower for a period of 27 days in November. The other proposals being discussed vary slightly in detail, but would result in similar impacts.

Depletions of water from the Missouri River continue to increase as demands for water grow. These depletions increase the adverse impacts of the alternative on downstream reaches of the Missouri River and the Mississippi River. Depletions exacerbate the situation by increasing the frequency of shortened navigation seasons and years with no navigation. By lowering the total amount of water in the Missouri River reservoir system, these depletions would reduce

The President
Page 2
March 22, 2001

releases from the reservoirs, particularly during low precipitation. These years are often the same years that the Missouri River provides critical flow support to the "bottleneck reach".

The effects of the alternative and increased depletions greatly amplify the impacts of either one considered in isolation. They would prove harmful to Midwest agriculture, the ports from St. Paul to New Orleans and industries that rely on the Mississippi River to move their products and represent a serious blow to our nation's economy.

In addition to these considerations, the U. S. Fish and Wildlife Service has proposed an increased spring rise and a period of low flow in the summer to help three endangered and threatened species. If implemented, this would further exacerbate the effects of higher reservoirs and depletions. We support addressing endangered species issues in a reasonable manner that considers all environmental and economic issues. Substantial gains have been realized for the same species on the lower Mississippi River using creative habitat restoration without any change in river flow. This approach has succeeded without the disruption of normal river operations.

We urge you to ensure that decisions are reached on the operations on the Missouri River only with the direct involvement of all those states that rely on the Inland Waterway System. It is important that the Corps offer a briefing to all the Mississippi River states on the full effects of these proposals, including reasonably anticipated future depletions. We request that you direct the Corps to analyze the effects of the Fish and Wildlife Service proposals and reasonably anticipated depletions on the entire Mississippi River system and the compounded effects of these changes on the Corps' "Preferred Alternative". The Corps should not select its "Preferred Alternative" until these analyses and briefings have been completed and the states have been allowed time for meaningful input. Finally, we urge you to form an inter-agency group, including the Secretaries of Transportation and Agriculture, to review the implications of these proposals prior to implementation.

Respectfully,

Paul E. Patton
Governor of Kentucky

Don Sundquist
Governor of Tennessee

M.J. "Mike" Foster, Jr.
Governor of Louisiana

Ronnie Musgrove
Governor of Mississippi

March 22, 2001

George H. Ryan
Governor of Illinois

Bob Holden
Governor of Missouri

Mike Huckabee
Governor of Arkansas

Scott McCallum
Governor of Wisconsin

Jesse Ventura
Governor of Minnesota

cc: The Vice President
The Honorable Donald H. Rumsfeld, Secretary of Defense
The Honorable Gale Norton, Secretary of the Interior
The Honorable Ann Veneman, Secretary of Agriculture
The Honorable Norman Mineta, Secretary of Transportation

TOTAL P.04

Oral testimony
Public Hearing Testimony
Revised Draft Environmental Impact Statement
Missouri River Master Water Control Manual
United States Army Corps of Engineers
Northwest Division

by Garry Niemeyer, President
Illinois Corn Growers Association

Good morning/afternoon. I appreciate the opportunity to testify today on behalf of the Illinois Corn Growers Association. My name is Garry Niemeyer. I raise corn and soybeans in Glenarm, Illinois and I am currently president of the Association.

ICGA is opposed to higher reservoir levels in the upper basin lakes of the Missouri River. You may rightfully ask why the opinion of an Illinois Association should be heard in regard to this issue. The answer is simple. Our river systems can not be managed in a way that looks at just a single river or a single portion of a river. The linkage between our rivers and streams is direct, and this is very evident when you look at the relationship of the Missouri, Mississippi, and Illinois Rivers.

Farmers in at least a half dozen Midwestern states depend on the efficient operation and dependability of river transportation for their livelihood. The same can be said for all U.S. citizens who benefit from the boost agricultural exports give to our economy and our trade balance. The entire public also benefits from the flow of non-Ag goods from road salt to construction materials which would be significantly more expensive without the benefit of efficient and dependable river transportation.

A good example of the interdependence of our river systems is the importance of the Missouri River water contribution to the Mississippi. During the summer and early fall, the Missouri can contribute more than 60 % of the water flow entering the Mississippi River near St. Louis. And we have ample experience in what drought induced changes in the Missouri's water volume can do to river traffic on both the Mississippi and Illinois River. It can turn sections of the Mississippi into beach property and bring river commerce to a complete halt.

Tinkering with higher reservoir levels in the upper basin lakes of the Missouri is like playing roulette with river transportation. It invites increased incidents of interruptions in river traffic. Illinois is a key beneficiary of the water transportation system because more than 45 percent of the state's corn crop and over 50% of our soybean crop are exported to customers overseas.

ICGA believes the "spring rise"approach places undue consideration on upstream recreational and environmental interests. It is my understanding that the concept of "adaptive management" has insufficient scientific validation. How can we move forward with such a plan without appropriate, conclusive data and scientific acceptance that this route will lead to species recovery.

I am a farmer, not a scientist, but I do know there are enough widely varying opinions on the potential benefits of a "spring rise" that it would be ill advised to move forward at this time. I find myself asking why...if this new theory of river management is correct no one is asking for us to apply it to the upper reaches of the Missouri as well? Why not remove the dams on the upper reaches of the Missouri too?

Are we prepared to pull the plug on this volume of commerce based on scientific theory? Some supporters of the NAS study will try to tell you they don't advocate the ending of navigation or the evacuation of the flood plain. ICGA believes what is being proposed is a sure and certain recipe to seriously curtail and possibly end navigation. (1) Restoration of the natural flood pulse; (2) Restoration of natural low flows; (3) Restoring a meandering channel; (4) Restoring cut-and-fill alluviations; (5) Restoring natural riparian vegetation; (6) Increasing variations in water temperature; and (7) Removal of extensive bank

stabilization and stream channelization. When looked at in combination you have a half-baked plan to kill navigation, either innocently or contrived.

I could take up more of your time discussing how many rail cars and semi-trucks it would take to move the cargo currently moving on this interdependent river system. Or I could expound on the increased traffics risks and road maintenance costs associated with increased truck numbers. Or I could point out the increased air pollution related to all these trucks, but I think you already know all this.

In the final analysis it would be nice to return our rivers to a completely natural state. However, the American public decided decades ago that the diverse benefits of river transportation - when managed wisely - are too overpowering, too important to our economy, and too important to our future.

We have empirical data and practical experience documenting the risk of flooding and the potential financial losses resulting from reduced internal drainage. The. ICGA supports non-flow species habitat restoration alternatives as a method of addressing species concerns, because reduced summer flows would end navigation on the Missouri and threaten barge traffic on the Mississippi River system. The current water control plan in place seems our best course. Thank you for your attention and the opportunity to testify.

Oral Statement
Of
Paul C. Rohde
Vice President
MARC 2000

Missouri River RDEIS Public Hearing
Quincy, Illinois
January 23, 2002

Good evening General, and thank you for this opportunity to speak to you tonight. My name is Paul Rohde. I am Vice President of the Midwest Area River Coalition 2000, a public advocacy coalition of entities spanning the length of the Missouri, Mississippi and Illinois Rivers. Our members employ or self-employ over 150,000 individuals in the river basin, operating in over 24 states. Our key mission is the long-term viability of navigation infrastructure on all three rivers.

We appreciate you scheduling another Quincy hearing in order to receive testimony from other constituencies who are just as adversely affected by proposed changes on the Missouri River as those directly along the Missouri. However, we reiterate our concern that these hearings are being held prior to the completion of adequate Mississippi River impact analysis. Consequently, we support the National Academy of Sciences' recommendation for a

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moratorium on any proposed changes to the Missouri River Master Manual at this time.

We respect the challenge presented to the Corps and hope our testimony helps clarify certain points. Tonight, I would like to speak briefly on the role the Missouri and Mississippi Rivers have on the lives of those who inhabit this part of the Midwest.

Our rivers are an interdependent system. The fact that we are meeting here, north of the confluence of the Missouri and Mississippi Rivers, is in itself testament to the interconnection of our rivers and, therefore, the interconnection of its people here in the Midwest, and for that matter, even with those who live up-river, and with whom we don't see eye-to-eye on the issue of the Missouri.

This debate has brought forth attempts to minimize the Missouri as a navigable river, and downplay the navigation industry's role, and the role of related industries, to the region. The benefits enjoyed by waterway navigation can not be viewed as expendable during this process. Water compelled rates from Missouri River navigation decrease transportation costs for the 38 million tons moved by rail each year. The interconnected capacity waterway navigation

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plays, along with rail and truck, to transport the commodities that ensure the Midwest's economic viability, can not be understated. The Missouri River is a vital economic asset to the region's overall economy and especially to the importance of the Upper Mississippi River System, ensuring the Midwest's economic status as America's 'third coast'.

Region-wide, navigation affords industry and agriculture producers and consumers $75-200 million dollars more in benefits by keeping rail and truck rates competitive. Navigation on the Mississippi is an industry that creates and supports over 400,000 jobs to this region, and transports an average of 100 million tons of commodities. Almost 70% of our agricultural exports travel this river system, supporting one of the positive balances of trade in a time of economic uncertainty.

Navigation benefits are enjoyed by all of us – consumers, through lower prices for products; American workers, miners and farmers, by reducing their transportation costs; manufacturers, through lower raw material costs made available by inexpensive transport and less expensive distribution of products; and to shippers. And that money saved goes back to the communities where we live and work – back to home and car purchases; to local stores for

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groceries, gasoline, clothing and entertainment; to health care and insurance; to employing full- and part-time help; for farmers, it goes to equipment and to the feed store; and of course, that money saved is also returned in local, state, and federal taxes.

As far as the Quincy area citizens are concerned, any changes to the CWCP (Current Water Control Plan) for an experiment on the Missouri River is also an experiment on the Mississippi River, and those who make their livelihood here, both up- and down-river of the confluence. You cannot segment a river, despite the NAS report's suggestion. Any action taken on one portion will have effects on the entire river system as a connected entity. Jeopardizing navigation on the Missouri will have adverse affects in the Mississippi. Effectively Land-locking the Upper Mississippi region with low water flows and higher reservoir levels under all but the CWCP proposals will be a detriment to our economy, environment, and standard of living.

The elimination of Missouri River navigation would also have detrimental effects to the Mississippi River, both up- and down-river. By jeopardizing the average of 100 million tons traveled along the Upper Mississippi River System each year with lower water flows and higher reservoir levels, we could be sentencing

this region to almost 4 million additional trucks on our region's highways. You can imagine the negative environmental impact this would have, not to mention the additional construction and repairs, and accidents and fatalities that would ensue on our already over-extended highways. These impacts cannot be discounted when considering all the affects of changes to the CWCP.

The recently released report from the National Academy of Sciences confirmed the glaring questions still left unanswered regarding solutions to the challenges facing the Missouri River. Certainly, human lives – not only their livelihoods, but the possible threat posed to life itself, if these changes to the Missouri River should be employed - should have a higher priority over unknown and untested results that may occur to the ecosystem.

Recreation is certainly an interconnected entity of the river that deserves mention. The Corps, however, values recreation according to a different methodology than navigation, resulting in misleading statistics. We have made our points on this at previous hearings. My only addition: if the Current Water Control Plan allowed recreation to grow and prosper into an $85 million dollar industry, as the Corps purports, the CWCP can't be all bad.

CONCLUSION

MARC 2000 opposes five of the six alternatives and believes that the CWCP provides the best alternative to meet all Congressionally authorized purposes, including navigation, flood control, recreation, hydropower and fish and wildlife needs. We respectfully call for a moratorium on any revision and withdrawal of the Service's Biological Opinion for review against the documentation provided by the NAS.

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Adams County Farm Bureau

330 SOUTH 36TH STREET • P.O. BOX 3037 • QUINCY, ILLINOIS 62305 • (217) 222-7305

January 23, 2002

U.S. Army Corps of Engineers
Northwestern Division
Attn: Missouri River Master Manual RDEIS
12565 W Center Rd
Omaha NE 68144-3869

I am Shawn Valter, Manager of the Adams County Farm Bureau. We are an agricultural association representing over 1600 farm families in Adams County. These families depend on the river to export their locally grown grain to the world markets.

The proposed changes to the Current Water Control Plan for the Missouri River could have a severe negative impact on our already financially burdened farm families. In times of drought, lowered summer flows would limit navigation, essentially stopping the barge traffic on the Mississippi River.

The Farm Bureau is also concerned with adaptive management practices, which would create too much freedom for the Corp to adjust flow management, without any significant input from the public.

We appreciate the opportunity to comment on this issue and oppose any revision that would be detrimental to our farm families. We are in support of the Current Water Control Plan for the Missouri River.

Sincerely,

Shawn Valter

Shawn Valter, Manager
Adams County Farm Bureau

"Improve the economic well-being of agriculture and enrich the quality of farm family life."

LAFARGE NORTH AMERICA

RDEIS Missouri River Master Water Control Manual
January 23, 2002 Public Meeting
Quincy, Illinois

My name is Ed VanderMeulen. I am the Area Distribution Manager in the River Region of Lafarge North America.

Lafarge North America is a leading producer of building materials in our country. We are dedicated to providing the very best products and services to build our country, and we are strongly committed to our environment. We transport millions of tons annually on the U.S. inland waterway system. We have numerous plants and distribution terminals on the rivers. Our employees live and work in riverfront communities. The water that sustains our lives comes from our rivers.

The Missouri River is very important to us. We have cement plant at Sugar Creek, Missouri and a distribution terminal in Omaha, Nebraska. The river is a natural and an environmentally preferable supply line from our plant to our terminal, one we have used responsibly for 36 years. Our manufacturing processes require a variety of bulk materials and fuel, which are transported in the most efficient and environmentally responsible manner – on the rivers. We have invested substantially in our plant and in our specialized barges to increase our abilities to supply building materials into the upper Midwest. Lafarge North America has the need to transport (annually) approximately 500,000 tons on the Missouri River, bringing in materials and fuel, and moving finished products to market. We can only do so if the river is navigable on a consistent basis.

River transportation allows us to produce and sell our products competitively. River transportation keeps costs down (for everybody). It provides a competitive balance with other modes of transportation. It's good business and it's good for the consumer. As such, it is beneficial to all of us. But even more importantly, please consider that:
One gallon of fuel moves one ton – 514 miles by barge, 202 miles by rail, and 59 miles by truck. One barge hauls the same as - 15 rail cars, or 58 semi-trailer trucks. For every ton we must haul by truck,– we use 826% more fuel, exhaust emissions increase by 709% and we contribute to the national dilemmas of truck tire disposal and vehicular accidents. River transportation is good for the environment in a very substantial way.

These benefits are not limited to the Missouri River basin. The Lower Mississippi River (the "main stem" if you will, of the Ohio River, the Upper Mississippi, the Missouri, and all of their navigable tributaries) receives a substantial amount of its flow from the Missouri. Without that flow, the effects spread over a wider area. From Pennsylvania, Minnesota, and South Dakota to the Gulf of Mexico – higher costs, elimination of commerce, more fuel and pollution, and yes, more truck tires.

A "fractured" navigation season on the Missouri damages, if not eliminates, the economic viability of this valuable resource while resulting in predictable and undesirable environmental impacts. Lafarge North America strongly supports the current water control plan for the operation of the Missouri River.

RIVER REGION
Midwest & West Central Distribution
1850 E. 53rd Street, Suite 6, Davenport, IA 52807
Office: (563) 344-8811 Fax: (563) 344-4487

The Project

ENVIRONMENTAL
RIVER ENGINEERING ON THE MISSISSIPPI

Engineers and biologists are typically thought to be at odds when addressing environmental issues. Each are often faced with agendas that appear to be in direct opposition to the other. Engineers on the Mississippi River have the mission to maintain and improve navigation. Biologists are concerned with maintaining and improving the habitat for plant and animal life that flourishes in a river habitat. These two, seemingly different goals, can in fact, complement each other.

The St. Louis District Corps of Engineers has proved through their *Environmental River Engineering Project on the Mississippi* that they can improve navigation through the use of new, innovative river structures and also positively impact the biological environment.

The project began two decades ago when St. Louis Engineers began to look at existing navigation structures and analyze their ability to meet environmental as well as navigation goals. A team of biologists and river engineers was established to study the designs' effectiveness by measuring navigation improvement and the ability to improve habitat diversity. In addition, each design's cost-effectiveness was measured against the cost of traditional structures.

The result is a system of river structures that meet environmental, navigation and economic goals. The *Environmental River Engineering Project on the Mississippi* has been used as a model in other Corps districts. And, the structures resulting from this project are being used in other locations throughout the country.

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RIVER ENGINEERING ON THE MISSISSIPPI

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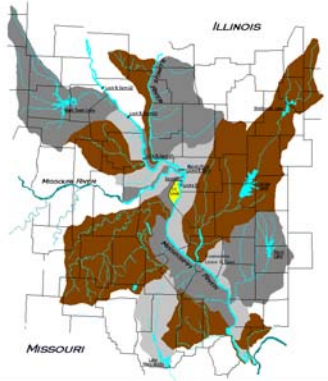
The Mississippi River

ENVIRONMENTAL
VER ENGINEERING ON THE MISSISSIPPI

Geography



The Mississippi is over 2,220 miles long and has been in existence since before the last ice age. The Mississippi is the second longest river in the United States and the third largest river basin in the world, exceeded in size only by the watersheds of the Amazon and the Congo. All water between the Appalachian Mountains in the East and the Rocky Mountains in the West eventually flows into the Mississippi.

The Mississippi River Basin is a very large system, with watersheds draining 1,245,000 square miles. The central portion is known as the Middle Mississippi, defined as a 300 mile reach from Saverton, Missouri to Cairo, Illinois. St. Louis, Missouri is located about halfway between these two points. Further defining the Middle Mississippi are the confluences of three major tributaries, The Illinois River, The Missouri River and The Ohio River.

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The Mississippi River

ENVIRONMENTAL
RIVER ENGINEERING ON THE MISSISSIPPI

History

" ...steamboats on the Mississippi all burn wood, and such are the immense quantities destroyed in this manner that had not nature provided an inexhaustible supply, some other fuel would have had long since to take its place."

-Henry Lewis, a traveler, 1848

The natural state of the Middle Mississippi River is narrow and deep. In the early 1800s, forests of trees spread out across the rich alluvial bottomlands and lined the river's banks. The river was so narrow that settlers could stand on the bank at Cahokia, and shout across to the settlement at St. Louis for a boat to come and ferry them across.

The Louisiana Purchase in 1803 marked the opening of the West. Settlements along the Mississippi like St. Louis began growing. In 1817, the first steamboat arrived in St. Louis, the Zebulon M. Pike. The population of St. Louis soared, and steamboat arrivals followed suit. From three arrivals in 1817 to more than 3,600 arrivals in 1858, steamboats had turned the Mississippi into a superhighway.

The rich timber resources which lined the Mississippi's banks were used to build rapidly expanding settlements, cleared for agricultural purposes and steamboats, as well as used to fuel the steamers' voracious boilers. As the steamboats and settlements grew, great forests of timber were cleared.

As the timber vanished, the river banks became less stable and rapidly deteriorated. The river widened and the less stable banks crumbled and fell. Trees were thrust into the river impeding navigation, and the congestion of the river traffic combined to make navigation difficult and steamboat travel dangerous. Many lives and vessels were lost.

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Role of the River Engineer

ENVIRONMENTAL
RIVER ENGINEERING ON THE MISSISSIPPI

"the military engineers have taken upon their shoulders the job of making the Mississippi over again- a job transcended in size by only the original job of creating it."

-Mark Twain
from Life on the Mississippi

" To construct the stream according to conditions imposed or assumed can be done successfully if we know all the facts and relations which enter into the problem. The omission of one may be fatal to success; hence all arbitrary changes are to be avoided. But nature overlooks nothing and we may confidently assume that the position and direction of the river at any time is the resultant of all the forces, and consequently, is a concrete expression of the law of the stream, which we may modify and preserve, but may not safely destroy or radically change."

-Colonel James H. Simpson, 1875

The condition of the river had reached disastrous proportions. To correct the situation, Congress, in 1880, directed the Corps of Engineers to create and maintain a safe and dependable navigation channel and return the river to its once majestic condition.

The river engineers had to begin a bold plan to reverse man's destruction. This effort was begun by stabilizing the river banks and designing navigation structures that worked in harmony with the natural laws of the river.

A variety of methods and navigational structures were employed. River banks were stabilized, dredges removed sediment from the channel, and snag boats were used to clear downed trees, wrecked steamboats, and other debris.

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The Mississippi Today

ENVIRONMENTAL
RIVER ENGINEERING ON THE MISSISSIPPI

	1820	1880	1968
Width	3,600 feet	5,300 feet	3,200 feet
Riverbed area	95 square miles	128 square miles	83 square miles
Island area	14 square miles	35 square miles	17 square miles

Today, the river closely resembles the dimensions it held in the early 1800s. Achieving this goal required the use of a variety of river structures which worked to guide the current, stabilize banks and encourage a narrowing of the river's width through a natural buildup of siltation. The process took many years.

The Middle Mississippi River has been restored to its majestic size and its navigational systems have been strengthened. Once this objective had been achieved, the Corps began taking a closer look-examining the biological impact of the navigational structures on the river's ecosystem.

When the Missouri Department of Conservation contacted the St. Louis District Corps of Engineers in 1970 and explained their concern over the lack of species diversity in the Mississippi River, the Corps began a serious inquiry into ways this situation could be corrected.

This initial inquiry led to a twenty-year project that continues today. The *Environmental River Engineering Project,* the first of its kind on the Mississippi River, sought to maintain the navigation channel in an environmentally sensitive manner; to work in harmony with the natural laws of the river.

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The Problems

ENVIRONMENTAL
RIVER ENGINEERING ON THE MISSISSIPPI

Meandering River Channel

The Mississippi likes to meander as it travels south. This meandering creates havoc with the navigation channel which the Corps must maintain at a nine foot depth.

The river likes to cut new channels in areas where it makes sharp twists and turns. In places where the current hits a protruding river bank, it begins to wear down the exposed bank, eventually forming a side channel and later a main channel.

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The Problems

ENVIRONMENTAL
RIVER ENGINEERING ON THE MISSISSIPPI

Eroding Banklines

Banklines on both sides of the river are exposed to erosion. The bankline along the fast moving side of the river is exposed to the river's relentless current, scouring above and below the water line. The river bank running along the slow side of the river can also be exposed to erosion. Wind, rain, man, and the river itself all contribute to the loss of bankline stability.

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The Problems

ENVIRONMENTAL
RIVER ENGINEERING ON THE MISSISSIPPI

Sedimentation/ Navigation Concerns

Each year the Mississippi carries approximately 130 million tons of sediment to the Gulf of Mexico. That which doesn't reach the Gulf adds approximately 300 yards to the State of Louisiana each year. The rest is deposited in the river channel. How much and where depends on the speed of the river and the size and placement of the object impeding its flow.

Sediment diminishes the river by destroying aquatic life. Biological diversity is best achieved with a variety of river habitats including slow water and wetted edge, often found along banklines. Historically, the use of dikes and the resulting sediment build up assisted in narrowing and improving the channel. This is no longer desirable as this process takes away from the river's natural state.

These photos, all taken at the same location over a period of 50 years, show the results of the gradual accumulation of sediment.

▲ September 1934

▲ October 1934

▲ March 1936

▲ October 1939

▲ September 1956

▲ Present Day

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The Problems

ENVIRONMENTAL
RIVER ENGINEERING ON THE MISSISSIPPI

Sedimentation/ Biological Concerns

Even without the use of dikes, sedimentation is a naturally occurring phenomenon. Traditionally, it was managed through the use of dredging. Disposing of the dredge material in an appropriate manner can also negatively impact the environment.

To a biologist, sedimentation is the process of turning an aquatic environment into a terrestrial habitat. While both environments are looked on favorably by the biologists, eliminating one in favor of another is unhealthy. Healthy ecosystems need a variety of diverse environments.

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The Problems

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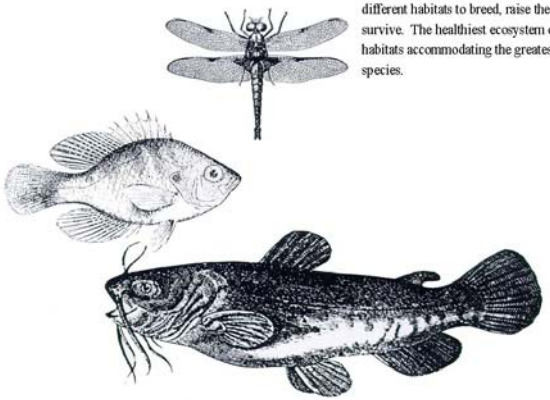
RIVER ENGINEERING ON THE MISSISSIPPI

Homogeneous Environments

One long, deep river creates a homogeneous environment that is unhealthy to the ecosystem. Ecosystems are built on food webs. Protozoa are consumed by insects, that are consumed by small fish, that are consumed by large fish, that are consumed by man and other predators. Different species require different habitats to breed, raise their young and survive. The healthiest ecosystem offer diverse habitats accommodating the greatest number of species.



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The Problems

ENVIRONMENTAL
RIVER ENGINEERING ON THE MISSISSIPPI

Narrowing of Channel Widths In River Bends

Since the late 1800s, when revetment and stabilization work began, the river has found ways to challenge man's ability to harness it tremendous energy.

Because the lateral erosion or meandering movement of the river has been held in check by these stabilization methods, the river has responded by diverting its lateral energy downward. This has caused a significant deepening of the river bends.

Sandbars on the inside of these bends formed points, commonly called point bars, which encroached into the navigation channel. The result has been the development of a severely narrow, deep, and swift navigation channel. The negative impacts of these river bendways create destruction and costs of great magnitude to both the navigation industry and the environment.

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The Problems

ENVIRONMENTAL
RIVER ENGINEERING ON THE MISSISSIPPI

Navigation Impacts of River Bends

Groundings have historically occurred in bends as far back as the days of steamboats. Groundings are dangerous to both crew members and passing tows. They result in loss of time and money, and may be environmentally hazardous.

From 1985 to 1988, in the reach of river from St. Louis, MO to Cairo, IL, there was an average of 20 groundings per year that occurred in the bends. Many of these accidents were a result of the barges running aground on the point bars or crashing into the outside riverbanks. Some accidents were catastrophic to the environment, spilling oil and cargo into the river channel.

The narrow bends enabled only one tow to navigate the bend at a time. This created huge bottlenecks which cost time and money to the industry and ultimately the customer. In 1988, an investigation revealed that the costs associated with time delays in bends reached $24 million.

The formation of ice in the river can jam in the narrow bends completely blocking the navigation channel and forming massive ice dams. When breached, the ice flow may damage and destroy everything in its path.

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The Problems

ENVIRONMENTAL
RIVER ENGINEERING ON THE MISSISSIPPI

Environmental Impacts of River Bends

The U.S. spends millions of dollars each year dredging point bars in troublesome bends to keep the navigation channel open. This remedial measure only serves as a short, temporary cure. The river naturally replaces the sediment during high water events. Frequent dredging also puts unwanted strain on the environment by releasing unnatural levels of suspended sediment and toxins from the sediment.

Excessive bankline erosion and overbank scour are phenomenons caused by river conditions that exist in some bends. Although revetments usually protect the banklines, the bends are subjected to a tremendous amount of force from excessive currents.. These conditions may lead to serious bankline and overbank erosion resulting in loss of adjacent wetlands and farmland.

In some bends, dikes were constructed on the sandbar side of the bendway in an attempt to improve the navigation channel. The Least Tern, a federally endangered species, uses many of these sandbars as nesting habitat. Dike construction on these sandbars may endanger or even eliminate the bendway's natural habitat.

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The Problems

ENVIRONMENTAL
RIVER ENGINEERING ON THE MISSISSIPPI

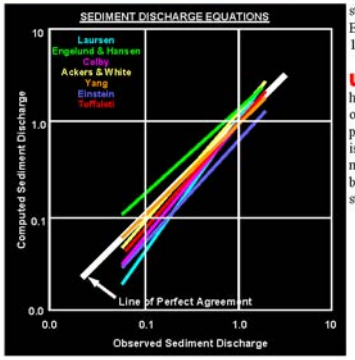
Environmental River Modeling

In the late nineteenth and early twentieth centuries, river engineers usually relied upon intuition, experimentation, and trial and error processes to design river training structures. Successful projects were hailed as engineering marvels while unsuccessful projects remained to be solved at additional cost. Many of these projects caused long term effects to the river environment and wildlife habitat. Today, in some cases, engineers are tasked with correcting the negative environmental effects of those real life experiments.

There has never been a simple set of equations or rules to follow when it comes to analyzing moving water and sediment. Hans Einstein, son of Albert Einstein, developed equations for scientists and engineers to use in solving sedimentation problems on rivers and streams. He cautioned, however, that his equations were based only upon experimental data, and therefore could not be applied in all situations. Many other notable scientists have also developed experimentally based approaches, equations and methodologies to address sedimentation. Discrepancies, conflicts, and general unreliability are common. In all probability, no other engineering discipline has involved such a vast disparity between theory and practice!

One tool that engineers used in the past and still use today is a large physical sediment transport model. These models are typically enormous in scale, some nearly the size of a normal football field. They are built to resemble an actual river or stream and contain running water and moving sediment. Engineers have used these large models since the early 1950s to solve major sedimentation problems.

Unfortunately, the cost of building, operating, and housing these models is exorbitant and the time required to obtain results can take years. These two factors are the primary reasons why the widespread use of large models is impractical for most engineering projects. Most modeling practices have not allowed the involvement of biologists, environmentalists, etc. when designing structures and solving sediment related problems.



Einstein's Bed Load Equation

$$\phi = \frac{q_s}{\gamma_s}\left[\frac{\rho}{\rho_s - \rho}\frac{1}{gd^3}\right]^{\frac{1}{2}}$$

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The Objectives

ENVIRONMENTAL
RIVER ENGINEERING ON THE MISSISSIPPI

" The more species in a biological community the healthier the system appears to be. The greater number of species, the greater opportunity for interaction which creates more energy pathways and produces a stronger system. Without diversity, the system will collapse."

- Butch Atwood, Fishery Biologist, Illinois Department of Natural Resources

The Corps developed a plan to solve the problems, defined its objectives, and established a team approach. The solutions to improve the biological diversity of the Middle Mississippi River had to be congruent with the Corps' directive to maintain a safe and dependable navigation channel. The solutions also had to be cost-effective.

The plan was to look at each of the navigation structures on the Middle Mississippi and analyze their biological impact. Then, address structural modifications which could make this impact more positive while maintaining the structure's navigation effectiveness.

Since these were separate and dissimilar goals, a team of biologists from the Missouri Conservation Department, the Illinois Conservation Department, the U.S. Fish and Wildlife Service and river engineers was formed to collect data before and after modifications and analyze the results of each project.

There are many factors that contribute to a river's navigability as well as species diversity. The one factor that the Corps could impact was habitat. The objectives focused on introducing these four habitats through design modifications of navigation structures.

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PRIMARY HABITATS

There are four primary habitats which are important to a river ecosystem. They include:

Fast Water:	Water moving quickly, usually the current in the main river channel.
Slow Water/ Quiet Water:	Water outside of the main river channel moving slower than the primary river current.
Wetted Edge:	Land which is constantly getting wet and then dry again as the river rises and falls. This area is in a continual state of change. This habitat is very important as there is a constant exchange of nutrients from the land to the aquatic environment.
Terrestrial:	Land. Land separated from the shore is especially important because it is away from man and other predators.

The Solutions

ENVIRONMENTAL
RIVER ENGINEERING ON THE MISSISSIPPI

Just as there is no one problem, there is no one solution. The Middle Mississippi is a dynamic and fast-changing stretch of river. The Northern half (mile 300 to 184) contains locks and dams while the lower half (mile 184 to 0) is open river. Each changing condition on the river creates the need for different solutions. Each solution, in its place, creates the opportunity for a diversity of habitats.

From the start of the inquiry, the Middle Mississippi was studied as an entire river system where different structures were designed to fit specific locations on the river. Each structure was evaluated as to its ability to improve biological habitat and meet navigation goals, within the entire reach of the river.

Before being installed in the river, many newly designed structures were model tested using either traditional large models or new Micro Modeling technology . Model testing evaluates various alterations and allows engineers to try nontraditional design approaches without the cost risks associated with field testing.

Once the structure is in place and its navigation effectiveness evaluated, a team of biologists assesses its environmental effectiveness by analyzing the number of species found at each structure.

Primary structural designs include:

- Notched Dikes
- Stepped-Up Dikes
- Revetments
- Off Bankline Revetments
- Chevron Dikes
- Side Channel Improvements
- Bendway Weirs

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The Solutions

ENVIRONMENTAL
RIVER ENGINEERING ON THE MISSISSIPPI

Notched Dikes

Rock dikes, running perpendicular to the shore, have long been used to guide the river and maintain the navigation channel. River engineers found that simply by adding notches, the dikes continue to create navigation dimensions as well as support diverse habitats. The river is allowed to move in and out between the notches creating all four of the primary river habitats. Sediment buildup forms small sandbars between each of the dikes. A variety of notch locations, sizes and widths were studied to create the optimum design. The overall result, however, is the creation of diverse environments by making a small but significant design modification *(drawing illustrates environments).*

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The Solutions

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RIVER ENGINEERING ON THE MISSISSIPPI

Stepped-Up Dikes

Stepped-Up dike fields of various elevations were developed to provide an additional element of diversity. They counteract sediment deposition, thereby preventing the conversion of aquatic environment into terrestrial. In the stepped-up dike configuration, each dike in sequence rises two feet higher than the previous one. This approach utilizes the river's energy to change the sediment deposits as the water level rises and falls. *(drawing illustrates environments).*

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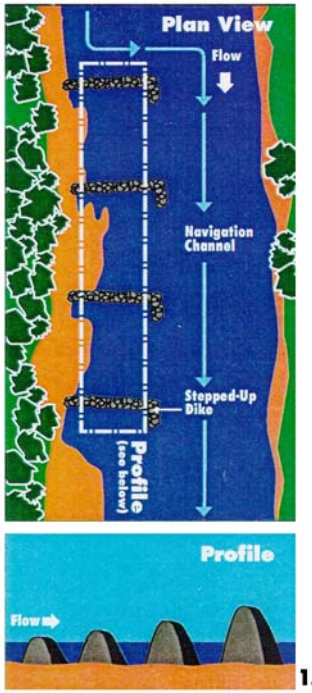

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The Solutions

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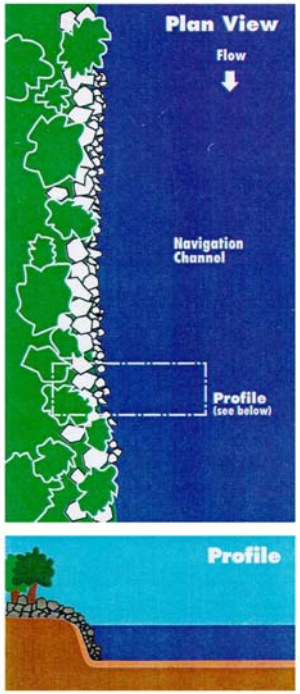
RIVER ENGINEERING ON THE MISSISSIPPI

Revetments



Traditional methods of stabilizing eroding riverbanks involved the removal of existing vegetation followed by grading the bank to form a stable slope on which to lay rock. The rock placed was relatively uniform with a maximum size of 400 pounds. The resulting environment was homogeneous and therefore did not provide for the same diversity as the natural river banks.
(drawing illustrates environments).

The solution was found using a different gradation of rock with a maximum size of 5,000 pounds. This change provided two important benefits. First, the larger maximum size rock provided greater bank stability. This removed the requirement to grade the bankline and remove all the vegetation. For the first time, trees and rock revetment could coexist.

The second benefit was the wider variation in rock size. The variety created with this gradation provided greater habitat diversity. In fact, it attracted more aquatic species than the natural caving bankline.

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The Solutions

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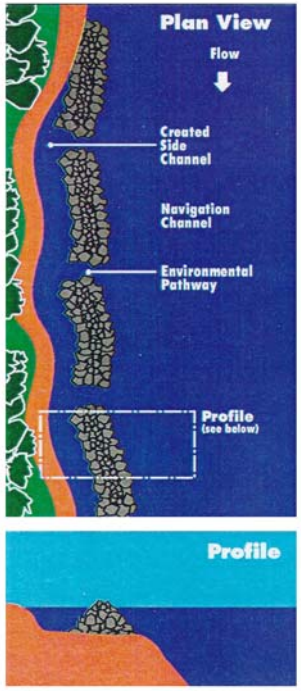
RIVER ENGINEERING ON THE MISSISSIPPI

Off Bankline Revetments



In areas where the caving river bank is on the shallow side of the river, there is a greater flexibility to design alternative solutions.

By placing a parallel structure of stone off the bankline, erosion is reduced and diverse habitats are maintained. In some areas, the revetment is notched allowing fish to move between the fast water and the slow water easily. The areas between the revetments and the bank line are considered to be prime fishing locations by both commercial and recreational fishermen.
(drawing illustrates environments).

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The Solutions

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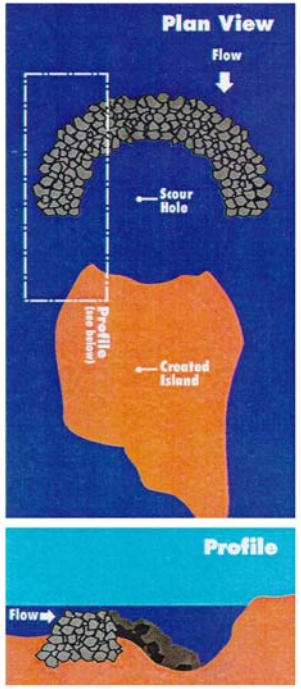
RIVER ENGINEERING ON THE MISSISSIPPI

Chevron Dikes



A navigation structure called a chevron dike was developed to improve river habitat and to create beneficial uses of dredge material. These structures are placed in the shallow side of the river channel pointing upstream. Their effect is to improve the river channel.

When dredging is needed to improve the main navigation channel, dredge sediment is deposited behind the chevron dike. These small islands encourage the development of all four primary river ecosystem habitats. In addition, various microorganisms cling to the underwater rock structures, providing a food source for fish.
(drawing illustrates environments).

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The Solutions

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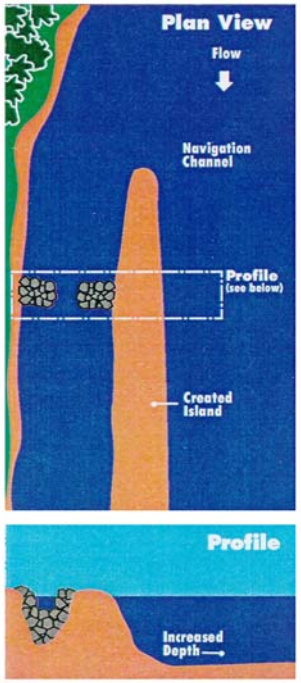
RIVER ENGINEERING ON THE MISSISSIPPI

Notched Closure Structures

Side Channels are not used for navigation, but are valuable environmental areas. Traditionally, these side channels were closed with rock structures to divert the flow into the main channel. While improving navigation, this process tends to fill the side channels with sediment and convert aquatic habitat to terrestrial habitat.

Notching a closure structure tends to keep the side channels from being filled with sedimentation. These structures form areas of deep water and shallow water creating a diversity of habitat, attracting different species of fish.
(drawing illustrates environments).



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The Solutions

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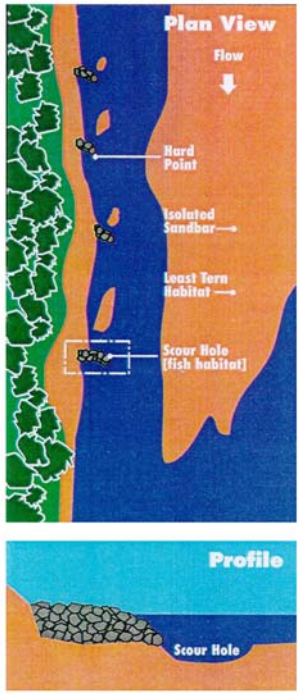
RIVER ENGINEERING ON THE MISSISSIPPI

Hard Points in Side Channels

Hard points are very short rock dikes that are used to stabilize side channel river banks. These navigation structures extend from the riverbank into the river and do not cause a significant buildup of sediment. Their contribution to habitat improvement is the creation of scour holes under the hard points. These deep plunge holes attract catfish that flourish in this environment.
(drawing illustrates environments).



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The Solutions

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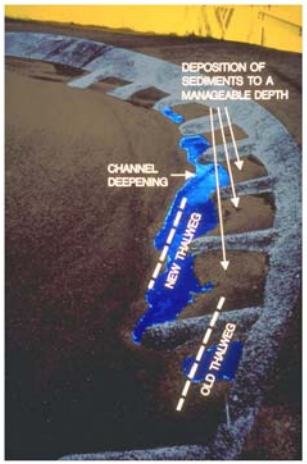
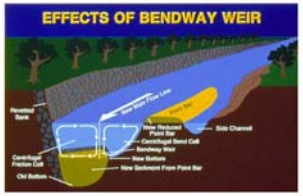
Bendway Weirs

What is a Bendway Weir? The Bendway Weir is a low level, totally submerged rock structure that is positioned from the outside bankline of the riverbend and angled upstream toward the flow. These underwater structures extend directly into the navigation channel underneath passing tows. Their unique position and alignment alter the river's spiraling, secondary currents in a manner which shifts the currents away from the outside bankline. This controls excessive channel deepening and reduces adjacent riverbank erosion on the outside bendway. Because excessive river depths are controlled, the opposite side of the riverbank is widened naturally. This results in a wider and safer navigation channel through the bend without the need for periodic maintenance dredging. The Bendway Weir also eliminates the need for dikes to be constructed on the inside of the bendway therefore protecting the natural beauty and habitat of this sensitive environment.





The Solutions

ENVIRONMENTAL
RIVER ENGINEERING ON THE MISSISSIPPI

Micro Modeling

Micro Modeling is extremely small scale physical sediment transport modeling. The technology was developed by the Corps of Engineers for use in studying the Mississippi River. Engineers are now able to replicate the mechanics of an actual river or stream on an area the size of a normal table top. Since the Micro Model is much smaller than a typical large model, this presents the possibility of widespread usage by engineers around the country. The miniature scale not only allows significantly greater speed and accuracy by which solutions to problems can be achieved, but drastically reduces the cost of a typical sedimentation study. This enables the opportunity to incorporate environmental design into engineering design solutions Environmental problems that would not have been modeled on a large scale in the past, may now be modeled on a micro scale. Unreliable and complex equations, construction experiments in the river, and large expensive models are now things of the past. Today, any river or stream can be replicated and studied with amazing simplicity.

Using Micro Modeling technology, an innovative engineering or biological design can be model tested, evaluated, and constructed in the actual river or stream within a few short months. Such progressive, high speed design and construction is unprecedented in the field of river engineering.

Micro controlled automation combined with highly accurate measurement devices are the keys to this technology. The hydraulic processes of a river or stream under study are replicated by employing a series of integrated process control valves, centrifugal pumps, micro level measurement gauges, and customized computer hardware and software. These devices allow the engineer to automatically control the flow of water and sediment through the model. The engineer is then able to allow the natural, complex hydraulic principals of moving water and sediment develop a duplicate bed form of the actual river in the Micro Model. A high resolution three-dimensional laser scanner is then employed to collect bed topography data on the Micro Model.

The Results

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The Missouri Department of Conservation tested the diversity in habitats surrounding a test section of notched dikes. Their raw data showed a total of 4,512 fish and 45 different species. After studying the data, they found an increase in diversity and numbers of micro-invertebrates. To a lesser degree, fish communities were also found to have greater diversity. In addition, the larger problem of aquatic environment becoming terrestrial was resolved. The river channel is maintained, structures are basically self-maintained and biological diversity has increased.

Tests by the Illinois Department of Conservation studying habitat diversity surrounding bankline and off bankline revetments showed the use of larger rock provided habitat for a greater number of fish than either small stone revetment or the natural river bank.

Isolated sandbars created by the various navigational structures provide nesting sites for the endangered Least Tern. These sandbars are away from man's encroachment which helps aid their development. In addition, the easy access from slow water to fast water provides valuable spawning ground for the endangered Pallid Sturgeon.

Each structure is a piece of a giant jigsaw puzzle, having to "fit" exactly to create a safe and dependable navigation channel and at the same time, stimulate the river's biological diversity.

Innovative concepts will continue to be designed and evaluated as the river engineers proceed with the environmental river engineering project: *to work in harmony with the natural laws of the river.*

True Environmental Engineering

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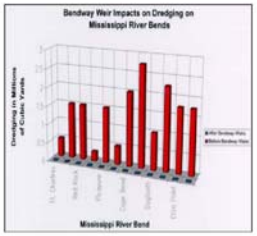
The Results

ENVIRONMENTAL
RIVER ENGINEERING ON THE MISSISSIPPI

Sampling shows fish love bendway weirs

The Bendway Weirs have not only provided navigation benefits, but many significant environmental benefits have been achieved as well. A wider and more smoothly aligned navigation channel has resulted so that traditional above-water dikes will no longer be built on the sandbars. Nesting Habitat for the Least Tern, an endangered bird species, is thus left largely undisturbed. Bendway Weir fields have also proven to provide habitat for a number of fish species. These environmental reefs have created diversity in the river bed and flow patterns in areas that were once narrow, deep, and swift. Monitoring efforts have shown that the federally endangered Pallid Sturgeon uses the weir fields significantly for their habitat.

In bendways where accidents and dredging were frequent, significant reductions have been made. Therefore, destructive impacts to the environment caused by tow boat accidents and dredging have nearly been eliminated. The Bendway Weirs have also contributed to the reduction of excessive bankline erosion and overbank scour in some areas. Because the weirs are located below the water surface and never seen, the scenic beauty of the natural river is preserved.



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The Results

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RIVER ENGINEERING ON THE MISSISSIPPI

"The Micro Models enable one to see and understand the interaction of large reaches of a river, and also gain a keen understanding of how upstream changes can adversely or positively influence downstream conditions several miles away."
-Butch Atwood, Fisheries Biologist, Illinois Department of Natural Resources

The Micro Model is an excellent environmental engineering tool. Micro Models have addressed environmental issues on a number of Middle Mississippi River side channels. The use of models has resulted in preservation and creation of habitat for fish and wildlife. Micro Models have also been used to study methods to alleviate costly and harmful dredging, to modify river training structures for habitat creation, and to protect pristine environmental areas. The models have been used in conjunction with several biological impact studies to examine endangered species, including the Pallid Sturgeon and the Least Tern.

Numerous environmental projects have been implemented as a result of the use of Micro Models. These include the environmental enhancement of several Mississippi River side channels and improvements to sediment and flow conditions on the Mississippi River. Several other projects are currently being designed or studied.

One of the greatest advantages provided by a Micro Model is the ability to convey highly complex hydraulic concepts to non-technical, non-engineering clients and partners. This allows various river and stream partners to participate in the discussions, solutions, and designs. For the first time in history, a device exists that enables multifaceted interest groups to work together toward a single goal.

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The Costs

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RIVER ENGINEERING ON THE MISSISSIPPI

The Mississippi is an ever-changing, dynamic river. The constant evaluation, the continual monitoring and the flexibility to react to the river's mood, requires continual updating of the project. The costs associated with the implementation of the *Environmental River Engineering Project* are inseparable from the channel improvement program and all design modifications have been incorporated into the program. The costs of coordinating with various interest groups, agencies, etc., are considered a part of the design process.

As a result of this environmental engineering project, significant environmental habitats have been created which have increased the diversity of the riverine environment at *no additional cost* to the channel improvement program or the American Taxpayer. What value can be placed on creating a healthy ecosystem?

- Endangered Species have been provided with increased nesting and spawning habitat, away from man's interference.
- Greater diversity can be measured in the number of habitats available and in the number of species occupying these environments.
- River engineering designs have achieved environmental and economic goals in a cost-effective, self-sustaining manner.

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The Future

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RIVER ENGINEERING ON THE MISSISSIPPI

The process of improving the biological diversity of the Middle Mississippi while maintaining its use as a navigation resource is ongoing. New problem areas on the Mississippi will appear, each one requiring a different solution. Notched dikes continue to be studied to determine the best location, width and depth of the notch. In addition, the role of river levels and their affect on navigation and biological systems is being studied.

The Future

ENVIRONMENTAL
RIVER ENGINEERING ON THE MISSISSIPPI

Applications

" There was a time when Conservation was off on our own mission and the Corps was off on their own mission and we were not communicating with each other. Opening the lines of communication between the two agencies helps us both achieve our mutual goals. This open communication is, in many respects, our greatest achievement."

- Norm Stuckey, Fishery Biologist, Missouri Department of Conservation

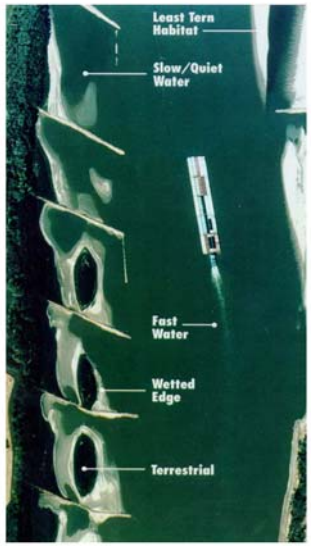
The environmental structures on the Middle Mississippi River are being used as models for similar structures on the Upper Mississippi as well as on other rivers. More importantly, the partnership between the river biologists and river engineers has set a new standard of achievement and cooperation. Similar teams and testing methods are being patterned after the St. Louis partnership in other Corps districts across the country.

It is the recognition and respect of each other's concerns and priorities that has fostered the cooperation and built the framework for the design and implementation of these environmentally sensitive structures.

The Conclusion

ENVIRONMENTAL
RIVER ENGINEERING ON THE MISSISSIPPI

Navigation structures that work in harmony with the river have always been a priority. By developing a greater understanding of the need for habitat diversity through partnerships with river biologists, river engineers are able to design structures that afford an even greater harmony with the natural laws of the river without compromising navigation effectiveness. It's a situation in which everyone wins—man, nature and the river.



" nature overlooks nothing and we may confidently assume that the position and direction of the river at any time is the resultant of all the forces, and consequently, is a concrete expression of the law of the stream, which we may modify and preserve, but not safely destroy or radically change."

- Colonel James H. Simpson, 1875

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Awards

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RIVER ENGINEERING ON THE MISSISSIPPI

Bendway Weirs have won numerous awards for the environmental and navigational benefits they have provided. These awards include the 1990 Permanent International Association of Navigation Congresses Gustave Willems Award, the 1991 Chief of Engineers Design and Environmental Awards Program's Award of Excellence, the 1992 American Society of Civil Engineers Award of Merit, and the 1992 Civilian Meritorious Award, and the 1995 Presidential Design Award.

In 1994, Micro Modeling received an innovation award from the St. Louis Academy of Science. In 1997, U.S. Patent Number 5653592 was granted to the U.S. Army Corps of Engineers for the Micro Modeling technology.

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ENVIRONMENTAL
RIVER ENGINEERING ON THE MISSISSIPPI

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FORT YATES, SOUTH DAKOTA TRANSCRIPT—JANUARY 30, 2002

1

U.S. ARMY CORPS OF ENGINEERS, OMAHA DISTRICT
MISSOURI RIVER BASIN WATER MANAGEMENT DIVISION

In Re: Proposed Changes to the
Guidelines for the Missouri River
Mainstem Systems Operation

TRANSCRIPT OF

PUBLIC HEARING

Taken At
Prairie Knights Casino
Fort Yates, North Dakota
January 30, 2002

BEFORE COL. DAN KRUEGER
NORTHWESTERN DIVISION DEPUTY COMMANDER

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(The proceedings herein were had and made of record, commencing at 1:06 p.m., Wednesday, January 30, 2002, as follows:)

COL. KRUEGER: With the appointed hour here, on behalf of Brigadier General David Fastabend, the Commander of the Northwestern Division of the United States Army Corps of Engineers, let me welcome you to our public hearing. This is the seventeenth comment session that we have conducted during this public comment period on the Revised Draft Environmental Impact Statement for the Missouri River Master Manual.

I am Colonel Dan Krueger. I'm the Deputy Division Commander for the Northwestern Division. And I have several members of the project team for the Missouri River Master Manual, the team that prepared the Revised Draft Environmental Impact Statement, with me here this afternoon. I would like to quickly introduce them.

Firstly, Mr. John LaRandeau, Miss Patti Lee standing in the back of the room, Mr. Roy McAllister, Mr. Paul Johnston also standing in the back of the room, and Mr. Rick Moore will be assisting me today. We also have Mr. Dan Cimarosti with us here today. Dan is our project manager in

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the North Dakota regulatory office up in Bismarck.

We want everyone to have a common understanding of the Revised Draft Environmental Impact Statement and copies of the executive summary were available. These copies and handouts, as well as the entire document, are available at libraries and project offices throughout the basin, and you may also receive a copy by writing to us or from our website. The addresses to write are available at the registration table or we will take your address at the registration table.

And very quickly, I will remark as to how the comment process will take place this afternoon. We'll stay as long as necessary for your comments to be heard. At this time I would like to recognize Mr. Tom Iron. I understand that he would like to make some welcoming comments. Mr. Iron.

MR. IRON: Colonel, members of the staff of the Corps of Engineers, I want to welcome you to Standing Rock Sioux Tribe. I'm glad we didn't have bad weather to battle to come here. It's been really nice the last two days.

What we want to share, sir, on behalf of Chairman Murphy, because I've had some eye surgery

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a couple weeks ago, I have a hard time reading my testimony and stuff, so I'm going to call on one of the staff members to read that for me and then I'm going to give you the original copy for the record. And I'm going to call on Cynthia Moore, the executive director for Standing Rock Sioux Tribe to read this for the record.

MS. MOORE: Thank you. Good afternoon. The Standing Rock Sioux Tribe and its membership welcomes the staff of the United States Army Corps of Engineers to the Standing Rock Sioux Indian Reservation.

The subject of the meeting today is the future operating plan for the Missouri River. This plan has been controversial and has taken considerable time in its development. The states have competing interests in the river. Threatened and endangered species have needs, and many private interests expect to develop property rights and economies on the future operation of the Missouri River.

The plan has considerable historical significance to the Standing Rock Sioux Tribe. Our ancestors were parties to the Fort Laramie Treaty of 1868 which established the Great Sioux

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Reservation, recognizing the area now occupied by the Standing Rock Sioux Indian Reservation and all of western South Dakota as the ancestral homeland of the Great Sioux Nation. The eastern boundary of the Great Sioux Reservation and the Standing Rock Indian Reservation was the low water mark of the east bank of the Missouri River. Our ancestors successfully included all of the Missouri River within the boundaries of the lands reserved by them pursuant to the treaty of 1868. Although our lands lay west of the Missouri River, our 19th Century chiefs insisted that the eastern boundary contain the full course and flow of the Missouri River. The westerly bank was not a satisfactory boundary, nor was the middle of the river, a conventional American property boundary, considered adequate. The easterly high bank was the only boundary acceptable to them because their health, welfare and economy depended on the full course of the river.

There is no change today. The Standing Rock Sioux Tribe successors to the 1868 Treaty continue to depend on the Missouri River for our health, welfare and economy. Our ancestors reserved for present and future generations of

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Standing Rock Sioux water rights, titles and interest in the Missouri River, and we retain those interests today. Those interests were not a grant from the United States, but rather a reservation of property our people held from time immemorial. In exchange for our reservation all those properties, our ancestors were willing to grant rights to the United States outside the boundaries of the Great Sioux Reservation.

Tribal 35, 36

Our problem in the development of the Master Manual by the Corps of Engineers was the failure to properly address our property rights in the Missouri River. This is of tremendous concern to the Standing Rock Sioux Tribal Council and the constituency that they represent.

Last spring the Tribal Council rejected the Master Manual as it enacted legislation in Resolution No. 106-01. Members of our technical staff will provide the details of that resolution. This resolution constitutes our concerns with respect to the Master Manual.

We expect that this meeting will satisfy the federal requirements that the Corps of Engineers has for meeting with stakeholders in the Missouri River Basin. We also recognize that this

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meeting will not address our concerns.

While we disagree strongly with the Master Manual, we are a hospitable people and graciously welcome you to our homeland today. We look forward to a civil exchange of ideas and invite you back at any time on any subject. There are subjects beyond the Master Manual in which we must share common objectives, such as the return to the Tribe of lands administered by the Corps of Engineers, the protection and enhancement of habitat and the development of water-based enterprises.

Thank you for giving us this opportunity to present our concerns regarding this Master Manual review and update.

MR. IRON: Also we have one of my staff members of the tribe government to also share some additional testimony on behalf of our tribe, Mr. Gary Marshall -- oh, Milo. Milo is a councilman from Wakpala District.

MR. CADOTTE: Thank you, Tom, Corps of Engineers and staff. Remarks of Standing Rock Sioux Tribal Council.

The Great Sioux Reservation contained the area now occupied by the Standing Rock Indian Reservation, all of western South Dakota and the

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entire course of the Missouri River in the Dakota Territory from the east bank to the west bank. Our predecessors, along with the present governing body and membership, regarded the area that we reserved unto ourselves to include all the soil, plains, woods, prairies, mountains, marshes, lakes and rivers within the region, with the fish and wildlife of every kind, within the said limits and all mines of whatsoever kind. The Standing Rock people were invested with all the rights, jurisdictions, privileges, prerogatives, royalties, liberties, immunities, and temporal franchises whatsoever from time immemorial.

Tribal 35,36

The Corps of Engineers in its Master Manual Update and Revision, as well as in the Environmental Impact Statement, has failed to identify these rights, titles and interests in the Missouri River and to properly address them as issues. This has been done by the Corps of Engineers over the repeated objections of the Standing Rock Sioux Tribe.

The Corps of Engineers has improperly disposed of consideration of our rights, titles and interests by stating in effect that only those rights confirmed by a final court of competent

10

Tribal (con't) 8,13

jurisdiction or by congressional settlement will be considered in the Master Manual and EIS. The Corps of Engineers has then proceeded to allocate water to be utilized by upstream and downstream states, by threatened and endangered species, by recreation and navigation interests with no treatment of the prior and superior, vested and perfected water rights of the Standing Rock Sioux Tribe. Nor has the Corps of Engineers addressed any decreed or settled water rights of any Indian tribe in the Missouri River Basin.

With the decisions made in any final Master Manual and EIS, countless interests in the Missouri River, including barge traffickers, marinas, environmental advocates, municipalities and states, among others, will undertake investments, encumber loans, commit appropriations, settle estates and otherwise make irretrievable commitments that will severely prejudice the future development of the prior and superior rights to the use of water by the Standing Rock Sioux Tribe and its membership. Courts and legislative bodies will be forced into immoral decisions and a twisting of the legal system to confirm the rights established by the Master Manual and EIS against the rights of

Legal 100

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the Standing Rock Sioux Tribe.

This is not necessary in the Missouri River Basin where sufficient water is currently available to properly and morally treat and acknowledge the water rights of the Standing Rock Sioux Tribe and other tribes with interest in the Missouri River, its tributaries and its aquifers. It is not necessary in the year 2002 to impose an allocation in the Missouri River that will forever prejudice the water rights of the Tribe. The United States can act scientifically, honorably and morally at the present time to properly address, not ignore, our water rights and avoid the tragedy in other regions of this great nation. We are 100 years beyond the birth of the Reclamation Act, which immediately created a monopolization of water supply in Arizona that now causes state courts to pervert Indian title to maintain the investments of the land speculators that benefited from the Reclamation Act and allocated all available Indian water to the Phoenix metropolitan area.

Legal 101

Recently the Arizona Supreme Court, faced with the prospect of four million people relying upon three sources of water: Indian water rights in the Salt River, the Central Arizona Project

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Legal 101 (con't)

(investing billions to divert and pump the Colorado River) and severe overpumping of finite groundwater resources, committed one of the most immoral acts of any court in this nation in our history by deciding that any Indian water right relying upon irrigation, the longstanding heart of the Winters Doctrine espoused by the United States Supreme Court, can no longer be proved and that any Indian water right for any other purpose must be based on a standard of minimal use for that purpose: 160 gallons per Indian per day or less.

The following is quoted by a southwestern newspaper presenting an article by a hydrologist for the Navajo Nation: "Take from the Indian people...their life sustaining Winters Doctrine rights and you take from them the basis for their continued existence as a separate and distinct people." William Veeder, federal attorney, 1972.

"For over a century, Arizona politicians, farmers, cities, businesses and industries have sought to control the state's water resources. Water from the Colorado River and the Gila River Basin is what keeps the state's economic engines running. Only within the past two decades, however, have most of the state's 21 tribes been

13

allowed a serious seat at the water rights table. The rules on water rights will determine these tribes' economic survival. But, just as they get more involved, the rules are changing."

"The Arizona Supreme Court, in a decision last November about rights in the Gila River Basin, set new rules for measuring Indian right. The Court felt tribes might get too much water under existing law, so it set a 'minimalist' standard for quantifying Winters rights." (Gallup Independent, by Jack Utter).

There is no need for this kind of approach to Indian water rights in the Missouri River Basin, but the Corps of Engineers in its Master Manual and EIS has failed as crudely in 2002 as federal policy did in 1902 when the Salt River project was initiated, totally committing all water of the Salt and Gila Rivers away from the Indian tribes and to the agriculturalists and land speculators in the Salt River Valley. It is not too much to ask for improvement in federal Indian water right policy over a century of failure. The policies, or lack thereof, presented in the Master Manual and EIS are consistent with the concern expressed by the Ninth Circuit Court of Appeals in its Ahtanum decision:

14

Tribal 23

"From the very beginnings of this nation, the chief issue around which federal Indian policy has revolved has been, not how to assimilate the Indian nations whose lands we usurped, but how best to transfer Indian lands and resources to nonIndians." (United States v. Ahtanum Irrigation District, 236 F. 2nd 321, 337).

The Standing Rock Sioux Tribe formally files its Resolution 106 with the Corps of Engineers as its reason and rationale for fully and completely rejecting the Master Manual and EIS.

COL. KRUEGER: Thank you, sir. We have others that wish to make statements this afternoon. Others that wish to make a statement, I would appreciate if you would fill out a card that Patti has in the back and that would be helpful to us. The other person that has indicated they wish to make a statement is Mr. Miles McAllister.

MR. McALLISTER: Good afternoon, folks. Welcome. I wanted to -- we've been to meetings like this before and made comments and you were just made aware of a resolution signed by the Sioux Tribe.

My names is Miles McAllister. I sit on the Tribal Council of Standing Rock Sioux, a member

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Tribal 8,13

1 at large. And one of the reasons why we have to
2 totally outright reject revisions of the Master
3 Manual in general is simply because it can't even
4 be considered because the Tribe really isn't
5 considered in it, nor is all the Indian nations
6 considered in it, as far as ownership of the water
7 and the resources that you're managing. Those
8 things have to be considered first before you can
9 even do the Master Manual.
10 And we understand what you're attempting
11 to do here. You're attempting to manage a river
12 system. We understand that. We do natural
13 resource management, those things here, too,
14 locally. But in order for you to do a Master
15 Manual, I feel that you have to consider ownership
16 of what you're managing. I think that just isn't
17 being covered. And so we can't even consider even
18 accepting any part of the Master Manual because of
19 that. There's some obvious treaty rights,
20 recognized rights that's been recognized in U.S.
21 courts. Those things have to be considered first.
22 And that's why I'm limiting my remarks to that, is
23 we just can't consider approving any part of the
24 revisions of the Master Manual.
25 But I did want to mention today what some

Tribal 13,23

16

1 of our priorities are. We understand that we live
2 next to Lake Oahe and we deal with some of the
3 consequences of having, you know, dams on this
4 river here. And with that we have to live our
5 day-to-day lives and try to attempt to develop an
6 economy in rural America, and one of the problems
7 -- the big problems, and you hear it from the
8 local governments besides us, too, is water
9 levels. We feel that you need to maintain a steady
10 and high water level so that economic development
11 can occur locally.
12 We're rural enough that we don't need to
13 be put in a place where we're at a disadvantage to
14 where we can't depend on a shoreline or that we
15 have to deal with erosion at such a variable level
16 that we can't even try to manage it. Unless the
17 water -- that's true anyplace. You're all familiar
18 with natural resource management, water
19 management. It's very hard to do any managing.
20 You're trying to do that now and you're having
21 difficulty with it. Think of us at the local
22 level, too, trying to do that management. We have
23 a lot of trouble with that, especially with the
24 varying water levels.
25 I have to say that with the membership I

Other 198

Other 7,198

1 represent that we prefer a steady high water level
2 so at least we have something to depend on, and we
3 have that resource that we feel we own available to
4 us.
5 And also I notice that it talks about
6 priorities. There must be ranking systems in how
7 you manage the water the way you do. Economic
8 development is number one with us. I feel, and my
9 constituents feel, that economic development is
10 number one. There are other priorities, sure, but
11 I feel economic development is number one. That
12 needs to be considered. The Tribe has backed that
13 with an overall economic development plan that's
14 been in place for years. That has prior
15 commitments to any other comments you may have
16 heard as to what our priorities are. Economic
17 development is still number one on Standing Rock
18 because that leads to our self-sufficiency. We
19 just can't get there if we can't depend on the
20 resources that we feel is ours and being managed by
21 another entity that doesn't put us first.
22 So I wanted to limit my comments to that,
23 my comments on the Master Manual, et cetera, but we
24 can't even consider it because of that, not
25 considering ownership of the resource at all of the

Tribal 36

1 surrounding land. And it's an issue that you as an
2 agency have to deal with, not only with us, but
3 probably with the U.S. Government in general which
4 you're a part of, other divisions. We understand
5 that stuff.
6 We want to make it clear what our
7 priorities are and who has ownership of those
8 properties that you're talking about in managing of
9 the resource. We feel it all belongs to us. And
10 there's even court precedence in saying that it all
11 belongs to us.
12 So with that I want to just say you have
13 our resolution and we just can't even consider the
14 Master Manual because of that. I'm going to limit
15 my comments to that today. I thank you for your
16 time.
17 COL. KRUEGER: Thank you, Mr. McAllister.
18 Mr. Del LeCompte.
19 MR. LeCOMPTE: Thank you, Colonel, members
20 of the Corps of Engineers. My name is Del
21 LeCompte. I'm an enrolled member of the Standing
22 Rock Sioux Tribe. I'm also a land coordinator with
23 the Standing Rock Sioux Tribe for the last ten
24 years. I work with land issues. I also work with
25 water issues, and so forth, in our office, or the

19

Department of Tribal Land Management.

My grandfather in 1889 when they give out allotments and enrolled our people into the reservation, my grandfather and his family were the first enrolled members. They were the first to receive allotments. Being that, they chose land that was close to the river, all the way from right south of Mobridge to the Sitting Bull Monument which now exists. That was our livelihood. My grandfather, his brothers and sisters, my father, there was 13 in my father's family, all lived in that area. We made a living, we were self-sufficient.

In the 1950s when I was just in high school, my family was asked to move to higher ground. We had an island called LeCompte Island, which is right -- was in the middle of the Missouri River. We had a church which was called LeCompte Church. We had a cemetery which was called LeCompte Cemetery. All our relatives, our ancestors were buried there. Our neighbors who lived in that area, the Ducheneaus, the Traversies, the Laboes, the Marshalls, they all lived in that area, they were buried in that cemetery. Then we were asked to move to higher ground. We will

CR 37

20

replace this for you, we will give you this, we will give you that.

My mother died nine years ago still waiting for water, still waiting for electricity that was promised many years ago. We lost 2,480 acres. We lost a cemetery with our descendants in it. We lost our church. Two years ago we discovered one of our headstones of my uncle, Urban LeCompte, laying in the water broken. We contacted the Corps of Engineers and asked, would you have the decency to please replace this headstone? Oh, we'll do it right away, and it's been two years, we have not received any word, still has not been replaced.

I guess we have had so much taken from us, we have had so much promised to us and I think, you know, the Corps has spent thousands and millions of dollars having meetings such as this, and yet they cannot replace a headstone.

I guess it hits home pretty hard because this is where I was raised, this is where I grew up, this was my life, my family's life. And now we have nothing down there. All the trees, all the animals. We only went to town probably once a month because everything was right there for us.

21

1 That was taken from us. Nothing replaced. Our
2 Indian way of life is when you take something from
3 somebody, you return something else, and this has
4 not been done. As I said, we lost 2,480 acres down
5 there, which was our livelihood. Now we don't have
6 anything. My father passed away, my mother passed
7 away waiting for all those things. I'm getting up
8 in age, I'll probably pass away and still won't be
9 seen.
10 I guess I can identify ourselves with the
11 people in Bosnia, the people in Afghanistan, what
12 is happening to them by people moving in and taking
13 over and ruling what they feel is right to them.
14 And I feel our Indian people have gone through
15 similar things by our own United States
16 Government. You know, our United States Government
17 made treaties, signed treaties with our ancestors
18 and said we will provide these in return for
19 peace. The United States Government was granted to
20 come onto the Mother Earth and stake claim, and as
21 time went on we grew smaller. We grew smaller
22 because land was taken from us illegally through
23 the courts. And I guess one of the things that
24 we've asked over the years is that we be recognized
25 as tribes, as a people, as citizens of the United

Tribal 35

22

1 States, that we be offered the same rights as those
2 living off the reservation.
3 As I said, you know, we can identify with
4 people in Afghanistan, Bosnia and other countries
5 when people come in and put their foot down. Our
6 own United States Government is doing it to us
7 right here in the United States, and then we say
8 we're a free country, we're a proud country. But
9 rights are being taken. And I don't mean to sound
10 this way, but it's been years and years now that
11 I've seen this and I work with it. I work with the
12 Corps of Engineers, I work with the people down
13 there. And I just wanted to make a few statements
14 personally. This does not reflect on the tribe
15 whatsoever. This is only personally coming from me
16 as a landowner, as someone who lost a lot, as
17 someone who was hurt, who has had his livelihood
18 taken away from him, you know, my father and mother
19 made when it was that, but yet all this was taken
20 away from us.
21 I want to thank you for allowing me a
22 little time to speak here. Thank you.
23 COL. KRUEGER: Thank you, sir. Mr. Robert
24 Gipp.
25 MR. GIPP: Good afternoon. Good

23

1 afternoon, people. My name is Robert Gipp and I'm
2 from Fort Yates here and I've lived here most of my
3 life, I was born here. I was born in 1938 and I
4 lived here before the flood, before the water
5 came. I have a -- I also have a father-in-law that
6 had lost land in the taken area, you know. I live
7 south of here about four miles. I'm a rancher.
8 And at that time the government paid them
9 $35 an acre while across the river they got more
10 money. That was one of the injustices done. And I
11 guess that's already been compensated through just
12 compensation through the JTAC law.

ErSd - 39

13 But, anyway, I'm going to kind of repeat
14 some of the things that were said here. As a
15 rancher, I'm more interested in flood control. One
16 of the things that I see is the wind and water
17 erosion on our shoreline, it's really bad,
18 especially where the hillsides are. We have
19 cliffs, I guess, about 30 or 40 feet tall, you
20 know. I guess you could just go down to the river
21 and you can see these things. And I suppose
22 they're all the way down the river. I suppose
23 people are complaining about that. This creates --
24 and I know there's an extreme raising and lowering
25 of the dam. I've seen it at its highest point

24

ErSd (cont'd) - 39

1 since I've lived here, been here for 30 years, I
2 have been a rancher, and at its lowest point where
3 you can just walk across the little dams or the
4 little streams that run into the river.
5 What this does is it really creates a
6 hazard, a fencing problem for ranchers, you know.
7 And I guess I can compensate and I can say, well, I
8 get a chance to use the taken area, you know, but
9 we are continuously fixing fence along the
10 shoreline. And in some cases for the last -- I've
11 lost fence -- I probably lost a quarter-mile of
12 fence in the last -- three or four times in the
13 last 30 years, you know. And I just lose it. It's
14 there, it's buried in the mud, the wire is rotten.
15 You just have to completely redo your fencing. So
16 that's one.

ErSd - 39

17 The other thing is the hazardous wind
18 erosion. The other day I was going to Fort Yates,
19 I was driving to Fort Yates and I couldn't see Fort
20 Yates. Fort Yates was like a dirt storm. The wind
21 -- the dirt erosion was blowing so bad, you know.
22 And on one hand, we try to -- we talk about
23 conservation, you know, through the Agriculture
24 Department, and, on the other hand, we just let the
25 wind -- you know, the Corps of Engineers has

Other 7

1 managed their dams so we have this dirt, wind
2 erosion very bad. Have you ever seen it? You've
3 seen it?
4 I guess I kind of covered some things on
5 flood control. And I don't understand why there
6 has to be such raising and lowering of these dams.
7 You know, the dams are on the Missouri River. The
8 people that live along the Missouri River are the
9 ones that have to suffer because that water is
10 lowered and let down the river, that water runs
11 into the Mississippi for barge control to keep
12 those barges afloat, and I don't think we can
13 change that here. One gentleman said to me this
14 morning, well, what do you want to go to that
15 meeting for? The state can't change it. What
16 makes you think you can change it? Can we change
17 it? I don't think we can, can we?
18 COL. KRUEGER: That's what this whole
19 process is about.
20 MR. GIPP: We'll see. The other thing, a
21 little bit about the hydropower production. I'm
22 also a director on the Mor-Gran-Sou Electric
23 Cooperative out of Flasher, and we borrow money
24 from the Rural Electric and we provide -- we wheel
25 power. We also get hydropower off of the dams.

HPower 18

1 Now, what happens is the water release is out of
2 sync with the demand. Okay. The dams are down
3 right now, so they're releasing very little water,
4 they're generating very little power right now in
5 the wintertime. This is when we need the power.
6 So we're out of sync. See what I'm saying? Okay.
7 That's the end of my comments.
8 COL. KRUEGER: Thank you, Mr. Gipp. And
9 Mr. Byron Olson has indicated a desire to make a
10 statement.
11 MR. OLSON: My name is Byron Olson. I'm
12 not a member of the Standing Rock Sioux. I came
13 down here to this meeting, though, didn't intend to
14 make comments until it struck me that this kind of
15 meeting is a continuation of an American
16 governmental policy stretching back for 150 years
17 or more, and the structure is you will sit there at
18 a table and listen, but then somewhere back in
19 Washington the great white father will make the
20 decision about what is appropriate for the Tribe.
21 When I leafed through the little
22 instruction or the summary that was handed out,
23 there is not one word said about Standing Rock
24 water rights, land rights. This issue should not
25 be a surprise to you. It was raised 20 years ago

Tribal 35

on the original land management stop, and yet what happens? It's ignored. It seems to me you would like the Standing Rock Sioux to go away, and one way to do that is to simply not address in your manual their issues.

I think instead of listening to comments, you ought to have a consultation and exchange of views. Maybe you don't agree with their position, but at least it has to be a two-way process rather than a one-way one. Thank you.

COL. KRUEGER: We have no further cards that indicate persons in attendance who wish to make statements. I would call for anybody who has not indicated on a card, is there anybody else who desires to make a statement during our hearing this afternoon? Yes, ma'am.

MS. GAYTON: My name is Ione Gayton. I work with the Standing Rock Sioux Tribal Historic Preservation Office. And for the record, the Standing Rock Sioux Tribal Historic Preservation Officer will be submitting written comments detailing where the Master Manual, Revised Draft Environmental Impact Statement is flawed, detailing the National Historic Preservation Act, National Environmental Policy Act and other federal laws

that are violated. Thank you.

COL. KRUEGER: Thank you. Is there anybody else who would like to make a statement in attendance?

I'll bring the hearing to a close then. I would like to remind all who are present here this afternoon that the hearing period, the comment period and the administrative record for the Revised Draft Environmental Impact Statement will remain open through the 28th of February, 2002, for anyone who wishes to submit a written fax or electronic comment. And if you need assistance in how to get those to us, we will be glad to assist you at the table. If you want to be on our mailing list or to receive a copy of the transcript that's being prepared of this hearing this afternoon, please fill out a card that's also available at the registration table.

I would like to once more thank the Standing Rock Sioux Tribe for requesting, participating and hosting this meeting in the heart of their tribal homeland. I appreciate all of those who have come today, your presence, participation and sharing of perspectives.

This hearing is now closed. Thank you

very much. Have a safe drive home.

(Concluded at 1:47 p.m., January 30, 2002.)

CERTIFICATE OF COURT REPORTER

I, Denise M. Andahl, a Registered Professional Reporter,

DO HEREBY CERTIFY that I recorded in shorthand the foregoing proceedings had and made of record at the time and place hereinbefore indicated.

I DO HEREBY FURTHER CERTIFY that the foregoing typewritten pages contain an accurate transcript of my shorthand notes then and there taken.

Bismarck, North Dakota, this 4th day of February, 2002.

Denise M. Andahl
Registered Professional Reporter

Public Hearing on the Master Manual
Standing Rock Sioux Tribe

Prairie Knights Casino and Resort
Standing Rock Sioux Indian Reservation
January 30, 2002 – 1:00 P. M.

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Charles W. Murphy
Chairman

Tom Iron
Vice Chairman

Sharon Two Bears
Secretary

AT LARGE
Jesse Taken Alive
Reva Gates
Pat McLaughlin
Miles McAllister
Ron Brown Otter
Isaac Dog Eagle, Jr.

DISTRICTS
Carol White Eagle
Cannonball District
Verna Bailey
Fort Yates District
Milo Cadotte
Wakpala District
Frank White Bull
Kenel District
Avis Little Eagle
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Allen Flying Bye
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Randal White Sr.
Porcupine District

REMARKS OF CHARLES W. MURPHY, CHAIRMAN
STANDING ROCK SIOUX TRIBE

Public Hearing on the Master Manual
Review and Update

Prairie Knights Casino and Resort
Standing Rock Sioux Indian Reservation
January 30, 2002 - 1:00 P.M.

The Standing Rock Sioux Tribe and its membership welcomes the staff of the United States Army Corps of Engineers to the Standing Rock Sioux Indian Reservation. The subject of the meeting today is the future operating plan for the Missouri River. This plan has been controversial and has taken considerable time in its development. The States have competing interests in the River. Threatened and endangered species have needs, and many private interests expect to develop property rights and economies on the future operation of the Missouri River.

P.O. BOX D • FORT YATES, NORTH DAKOTA 58538
PHONE: 701-854-7201 or 701-854-7202 • FAX 701-854-7299

The plan has considerable historical significance to the Standing Rock Sioux Tribe. Our ancestors were parties to the Fort Laramie Treaty of 1868 which established the Great Sioux Reservation, recognizing the area now occupied by the Standing Rock Sioux Indian Reservation and all of Western South Dakota as the ancestral homeland of the Great Sioux Nation. The eastern boundary of the Great Sioux Reservation and the Standing Rock Indian Reservation was the low-water mark of the east bank of the Missouri River. Our ancestors successfully included all of the Missouri River within the boundaries of the lands reserved by them. pursuant to the Treaty of 1868.. Although our lands lay west of the Missouri River, our 19th-century chiefs insisted that the eastern boundary contain the full course and flow of the. Missouri River. The westerly bank was not a satisfactory boundary.. Nor was the middle of the River, a conventional American property boundary, considered adequate. The easterly high bank was the only boundary acceptable to them because their health, welfare and economy depended on the full course of the River.

There is no change today. The Standing Rock Sioux Tribe, successors to the 1868 Treaty, continue to depend on the Missouri River for our health, welfare and economy. Our ancestors reserved for present and future generations of Standing Rock Sioux water rights, titles and interest in the Missouri River, and we retain those interests today. Those interests were not a grant from the United States but rather a reservation" of property our people held from time immemorial. In exchange for our reservation all those properties, our ancestors were willing to grant rights to the United States outside the boundaries of the Great Sioux Reservation.

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We expect that this meeting will satisfy the federal requirements that the Corps of Engineers has for meeting with stakeholders in the Missouri River Basin. We also recognize that this meeting will not address our concerns.

While we disagree strongly with the Master Manual, we are a hospitable people and graciously welcome you to our homeland today. We look forward to a civil...exchange of ideas and invite you back at any time on any subject. There are subjects beyond the Master Manual in which we must share common objectives, such as .the return to the Tribe of lands administered by the Corps of Engineers, the protection and enhancement of habitat and the development of water-based enterprises.

Thank you for giving us this opportunity to present our concerns regarding the Master Manual Review and Update.

RESOLUTION NO. 106-01

FORMALLY ESTABLISHES THE STANDING ROCK SIOUX TRIBE'S POLICY ON ITS ABORIGINAL, TREATY AND WINTERS RIGHTS TO THE USE OF WATER IN THE MISSOURI RIVER TO MEET ALL PRESENT AND FUTURE USES; AMONG OTHER THINGS

WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934, with the exception of Article 16, and the recognized governing body of the Tribe is known as the Standing Rock Sioux Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribal Council, pursuant to the Constitution of the Standing Rock Sioux Tribe, Article IV, Section(s) 1 (a,b,c,h and j), is authorized to negotiate with Federal, State and local governments and others on behalf of the Tribe, is further authorized to promote and protect the health, education and general welfare of the members of the Tribe and to administer such services that may contribute to the social and economic advancement of the Tribe and its members; and is further empowered to authorize and direct subordinate boards, committees or Tribal officials to administer the affairs of the Tribe and to carry out the directives of the Tribal Council; and is empowered to manage, protect, and preserve the property of the Tribe and natural resources of the Standing Rock Sioux Reservation; and

Master Manual EIS Specifically Excludes Consideration of Indian Water Rights

WHEREAS, the United States Army Corps of Engineers makes the following statement describing how the Corps fails to recognize or consider Indian water rights in its Master Water Control Manual for the future operation of the Missouri River, thereby committing Missouri River water to operational priorities and creating an insurmountable burden for the future exercise of the rights to the use of water by the Standing Rock Sioux Tribe as reserved from time immemorial:

> *The Missouri River basin Indian tribes are currently in various stages of quantifying their potential future uses of Mainstem System water. It is recognized that these Indian tribes may be entitled to certain reserve or aboriginal Indian water rights in streams running through and along reservations. Currently, such reserved or aboriginal rights of tribal reservations have not been quantified in an appropriate legal forum or by compact with three exceptions.... The Study considered only existing consumptive uses and depletions; therefore, no potential tribal water rights were considered. Future modifications to system operation, in accordance with pertinent legal requirements, will be considered as tribal water rights are quantified in accordance with applicable law and actually put to use. Thus, while existing depletions are being considered, the Study process does not prejudice any reserved or aboriginal Indian water rights of the Missouri River basin Tribes.* (PDEIS 3-64); and

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WHEREAS, the failure of the United States, acting through the Corps, to recognize and properly consider the superior rights of the Standing Rock Sioux Tribe must be rejected by the Tribe for the reason that the Master Manual revision and update is making irretrievable commitments to (1) navigation in the lower basin, (2) maintenance of reservoir levels in the upper basin and (3) fish, wildlife and endangered species throughout the upper and lower basins. These commitments are violations of the constitutional, civil, human and property rights of the Tribe; and

Endangered Species Guidance Specifically Excludes Consideration of Indian Water Rights in Missouri River Basin

WHEREAS, the Working Group on the Endangered Species Act and Indian Water Rights, Department of Interior, published recommendations for consideration of Indian water rights in Section 7 Consultation, in national guidance for undertakings such as the Master Manual, as follows:

> *The environmental baseline used in ESA Section 7 consultations on agency actions affecting riparian ecosystems should include for those consultations the full quantum of: (a) adjudicated (decreed) Indian water rights; (b) Indian water rights settlement act; and (c) Indian water rights otherwise partially or fully quantified by an act of Congress... Biological opinions on proposed or existing water projects that may affect the future exercise of senior water rights, including unadjudicated Indian water rights, should include a statement that project proponents assume the risk that the future development of senior water rights may result in a physical or legal shortage of water. Such shortage may be due to the operation of the priority system or the ESA. This statement should also clarify that the FWS can request reinitiation of consultation on junior water projects when an agency requests consultation on federal actions that may affect senior Indian water rights.*

The Working Group recommendations further the failure to address unadjudicated Indian water rights. It is unthinkable that the United States would proceed with water resource activities, whether related to endangered species, water project implementation or Missouri River operation in the absence of properly considering Indian water rights that are not part of an existing decree – presuming, in effect, that the eventual quantification of Indian water rights will be so small as to have a minimal impact on the operation of facilities in a major river, such as the Missouri River, or so small as to be minimally impacted by assignment of significant flow to endangered species. The flows required to fulfill or satisfy Indian water rights are, in fact, not small nor minimal but are significant; and

Final Indian Water Right Agreements and Claims of the United States on Behalf of Tribes Are Denigrated by Master Manual and Other Regional Water Allocation Processes

WHEREAS, failures of federal policy to properly address Indian water rights in planning documents such as the Master Manual is underscored by example. Tribes in Montana

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have water right compacts with the State that are complete and final but have not been incorporated into a decree. Incorporation is certain, however, and will be forthcoming. It is not a matter of "if", it is a matter of "when". The water rights agreed upon by compact are substantial, but neither the Corps of Engineers' Master Manual nor the Secretary of Interior's ESA guidance, as currently constituted, will consider these rights – they presume the rights do not exist -- until they become part of a decree. At such time as the decree in Montana is complete, the Master Manual conclusions will be obsolete and any assignment of Missouri River flows to upstream reservoirs, downstream navigation or endangered species, relied upon by the various special interest groups, will be in conflict with the decree; and

WHEREAS, in Arizona, as another example, these same flawed federal policies to ignore Indian water rights in the allocation of regional water supplies are manifest. The United States is in the process of reallocating part of approximately 1.4 million acre-feet of water diverted from the Colorado River and carried by aqueduct system in the Central Arizona Project for the Phoenix area. The reallocation is purportedly for the purpose, in part, of resolving Indian water right claims in Arizona, but careful review of the reallocation demonstrates that only two Indian tribes are involved. The Bureau of Reclamation, agent for the trustee in the reallocation process, has given short shrift to other Indian concerns that the EIS should address the impacts of the reallocation on all affected tribes and on all non-Indian claimants that will be impacted by ongoing adjudication of Indian water rights. In response Reclamation describes claims filed by the Department of Justice on behalf of the tribes as *speculative*. Thus, Arizona tribes are in the same dilemma as Missouri River basin tribes, but the process to determine the magnitude of Indian claims in Arizona is much further advanced. The United States is, on the one hand, pursuing a claim for adjudication of Indian water rights; and the United States, on the other hand, is reallocating water necessary to supply non-Indian interests impacted by Indian water rights-- but is refusing to recognize any potential for Indian water rights success in ongoing adjudications. This denigrates the claims of the United States on behalf of the tribes and draws into question the intent and commitment of the Department of Justice in the proper advancement of Indian claims, claims which at least some tribes consider deficient and poorly prosecuted by the Department of Justice; and

WHEREAS, the Standing Rock Sioux Tribe cannot tolerate these policies: cannot permit reliance by wide and diverse interest groups in the Missouri River – states, environmental, federal agencies and economic sectors– on conclusions associated with the preferred alternative in the Master Manual when the conclusions are based on the presumption of no Indian water rights and insignificant future Indian water use throughout the Basin; cannot expect future courts to undo investments, undertakings, mortgages and economies that build on the basis of the Master Manual conclusions; cannot expect future Congresses to act more favorably than future courts; and

Importance of Master Manual Process is Underscored by Congressional and

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Other Activity

WHEREAS, the Master Manual of the Corps of Engineers is the name presently given to the operating procedures for the mainstream dams and reservoirs. The Corps of Engineers has responsibility for those operations as directed by the 1944 Flood Control Act, the controlling legislation for the Pick-Sloan Project. Since 1944, all dams (except Fort Peck Dam) were constructed and have been operated by the Corps of Engineers or the Bureau of Reclamation. The current Master Manual revision is the first public process update of Corps of Engineers operating procedures, and its importance to future exercise of the Tribe's water rights cannot be ignored by the Tribe; and

WHEREAS, the Master Manual is intended by the federal courts and Congress to resolve issues between the upper and lower basin states, irrespective of tribal issues. The federal courts have dismissed cases brought by the states over the last decade and a half, cases designed to settle issues of maintenance of water levels in the reservoirs in North and South Dakota and the conflicting release of water for downstream navigation; and

WHEREAS, most recently, the Energy and Water Resource Development appropriations for FY 2001 were vetoed by the President because upstream senators supported by the President opposed language by downstream senators in the appropriations bill, which contained controversial language as follows:

> *Sec. 103. None of the funds made available in this Act may be used to revise the Missouri River Master Water Control Manual when it is made known to the Federal entity or official to which the funds are made available that such revision provides for an increase in the springtime water release program during the spring heavy rainfall and snow melt period in States that have rivers draining into the Missouri River below the Gavins Point Dam.*

The provisions cited above require the Corps of Engineers or any other official to refrain from using any funds to revise the Master Manual if it is determined that the revision would cause any increase in water releases below Gavin's Point Dam in springtime. There is apparently concern by downstream members of Congress that the Master Manual will recommend an increase in releases to the detriment of downstream navigation, environmental values or flood control. Upstream members of Congress stopped the approval of appropriations over this controversy until the above-cited language was omitted from the bill; and

WHEREAS, given the importance of the Master Manual revision and update to the States, the Congress and Courts, the Standing Rock Sioux Tribe cannot tolerate the exclusion of proper consideration of their water rights, nor can the Tribe tolerate the inadequate representation of the Trustee on this matter; and

Brief Historical Review of Indian Water Rights

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WHEREAS, the right of the Crown of Great Britain to the territory of North America was derived from the discovery of that continent by Sebastian Cabot, who in 1498 explored a greater part of the Atlantic Coast under a Commission from King Henry VII and took formal possession of the continent as he sailed along the coast. But those commissioned by the Crown to settle in North America were cognizant of the rights, titles and interests of the original possessors. In the proprietary of Maryland, granted to George Calvert, Lord Baltimore, in 1632, for example, it was recognized by English law evolving from invasions against the Celtic tribes and their successors by the Romans, Anglo-Saxons and Normans, among others, over a period of 1,500 years prior to the discovery of America that the rights of the ancient possessors were specific and could not be ignored by a just occupier. The following was the rationale:

> *The roving of the erratic tribes over wide extended deserts does not formed a possession which excludes the subsequent occupancy of immigrants from countries overstocked with inhabitants. The paucity of their numbers in their mode of life, render them unable to fulfill the great purposes of the grant [by the King to the Proprietary of Maryland]. Consistent, therefore, with the great Charter to mankind, they (Tribes) may be confined within certain limits. Their rights to the privileges of man nevertheless continue the same: and the Colonists who conciliated the affections of the aborigines, and gave a consideration for their territory, have acquired the praise due to humanity and justice. Nations, with respect to the several communities of the earth, possessing all the rights of man, since they are aggregates of man, are governed by similar rules of action. Upon those principles was founded the right of emigration of old: upon those principles the Phenicians and Greeks and Carthagenians settled Colonies in the wilds of the earth.... In a work treating expressly of original titles to Land it has been thought not amiss to explain... the manner in which an individual obtaining from his Sovereign an exclusive licence, with his own means, to lead out and plant a Colony in a region of which that Sovereign had no possession, proceeded to avail himself of the privilege or grant, and to reconcile or subject to his views the people occupying and claiming by natural right that Country so bestowed... In particular, an history, already referred to, of the Americans settlements, written in 1671, after speaking of the acquisition of St. Mary's continues 'and it hath been the general practice of his Lordship and those who were employed by him in the planting of the said province, rather to purchase the natives' interest... than to take from them by force that which they seem to call their right and inheritance, to the end all disputes might be removed touching the forcible encroachment upon others, against the Law of nature or nations... When the earth was the general property of mankind, mere occupancy conferred on the possessor such an interest as it would have been unjust, because contrary to the Law of Nature, to take from him without his consent: and this state has been happily compared to a theatre, common to all; but the individual, having appropriated a place, acquires a privilege of which he cannot be dispossessed without injustice'. ... the Grant [to Lord Baltimore] comprehended 'all Islands and Islets within the limits aforesaid, and all Islands and etc. within ten marine leagues of the Eastern Shore, with all Ports, Harbors, Bays, Rivers, and Straits, belonging to the region or Islands aforesaid, and all the soil, plains, woods, mountains, marshes, Lakes, Rivers, Days, and Straits, with the fishing of every kind, within the said limits'; all mines of whatsoever kind, and patronage and advowson of all Churches. Lord Baltimore ... was invested with all the Rights, Jurisdictions, Privileges, Prerogatives, Royalties, Liberties, Immunities, and Royal Rights and Temporal Franchises whatsoever, as well by sea as by land, within the Region, Islands, Islets, and limits aforesaid...*(Source: John Kilty. *Land Holder's Assistant and Land Office Guide.*

> *Islands, Islets, and limits aforesaid...*(Source: John Kilty. *Land Holder's Assistant and Land Office Guide.*
> Baltimore: G. Dobbin & Murphy, 1808. MSA SC 5165-1-1).; and

WHEREAS, 130 years later the Proclamation of 1763 by King George III recognized title to the land and resources reserved by the American Indians of no lesser character or extent than the Charter to Lord Baltimore:

> *And whereas it is just and reasonable, and essential to our interest, and the Security of our Colonies, that the several Nations or Tribes of Indians with whom We are connected, and who live under our Protection, should not be molested or disturbed in the Possession of such Parts of Our Dominions and Territories as, not having been ceded to or purchased by Us, are reserved to them, or any of them, as their Hunting Grounds -- We do therefore, with the Advice of our Privy Council, declare it to be our Royal Will and Pleasure, that no... Governor or Commander in Chief in any of our other Colonies or Plantations in America do presume for the present, and until our further Pleasure be known, to grant Warrants of Survey, or pass Patents for any Lands beyond the Heads or Sources of any of the Rivers which fall into the Atlantic Ocean from the West and North West, or upon any Lands whatever, which, not having been ceded to or purchased by Us as aforesaid, are reserved to the said Indians, or any of them. And We do further declare it to be Our Royal Will and Pleasure, for the present as aforesaid, to reserve under our Sovereignty, Protection, and Dominion, for the use of the said Indians, ... all the Lands and Territories lying to the Westward of the Sources of the Rivers which fall into the Sea from the West and North West as aforesaid. And We do hereby strictly forbid, on Pain of our Displeasure, all our loving Subjects from making any Purchases or Settlements whatever, or taking Possession of any of the Lands above reserved, without our especial leave and Licence for that Purpose first obtained. And We do further strictly enjoin and require all Persons whatever who have either wilfully or inadvertently seated themselves upon any Lands within the Countries above described, or upon any other Lands which, not having been ceded to or purchased by Us, are still reserved to the said Indians as aforesaid, forthwith to remove themselves from such Settlements. And whereas great Frauds and Abuses have been committed in purchasing Lands of the Indians, to the great Prejudice of our Interests, and to the great Dissatisfaction of the said Indians: In order, therefore, to prevent such Irregularities for the future, and to the end that the Indians may be convinced of our Justice and determined Resolution to remove all reasonable Cause of Discontent, We do, with the Advice of our Privy Council strictly enjoin and require, that no private Person do presume to make any purchase from the said Indians of any Lands reserved to the said Indians, within those parts of our Colonies where We have thought proper to allow Settlement: but that, if at any Time any of the Said Indians should be inclined to dispose of the said Lands, the same shall be Purchased only for Us, in our Name, at some public Meeting or Assembly of the said Indians, to be held for that Purpose by the Governor or Commander in Chief of our Colony respectively within which they shall lie: and in case they shall lie within the limits of any Proprietary Government, they shall be purchased only for the Use and in the name of such Proprietaries, conformable to such Directions and Instructions as We or they shall think proper to give for that Purpose....*
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> *Given at our Court at St. James's the 7th Day of October 1763, in the Third Year of our Reign.*
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> *GOD SAVE THE KING;* and

WHEREAS, after the American Revolution and consistent with the foregoing, the United States Supreme Court by 1832 relied upon the ancient concepts of its predecessor Great Britain and recognized the property rights of Indians in the classical case of *Worcester v. the State of Georgia:*

> *America, separated from Europe by a wide ocean, was inhabited by a distinct people, divided into separate nations, independent of each other and of the rest of the world, having institutions of their own and governing themselves by their own laws. It is difficult to comprehend the proposition, that the inhabitants of either quarter of the globe could have rightful original claims of dominion over the inhabitants of the other, or over the lands they occupied; or that the discovery of either by the other should give the discoverer rights in the country discovered, which annulled the pre-existing rights of its ancient possessors.* (6 P 515, p. 543)
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> *... This principle, acknowledged by all Europeans, because it was the interest of all to acknowledge it, gave to the nation making the discovery, as its inevitable consequence, the sole right of acquiring the soil and making settlements on it. It was an exclusive principle which shut out the right of competition among those who had agreed to it; not one which could annul the previous rights of those who had not agreed to it. It regulated the right given by discovery among the European discovers; but could not affect the rights of those already in possession, either as aboriginal occupants, or as occupants by virtue of a discovery made before the memory of man.....*
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> *... This soil was occupied by numerous and warlike nations, equally willing and able to defend their possessions. The extravagant and absurd idea, that the feeble settlements made on the sea-coast, or the companies under whom they were made, acquired legitimate power by them to govern the people, or occupy the lands from sea to sea, did not enter the mind of any man. They were well understood to convey the title which, according to the common law of European sovereigns respecting America, they might rightfully convey, and no more. This was the exclusive right of purchasing such lands as the natives were willing to sell. The Crown could not be understood to grant what the Crown did not effect to claim; nor was it so understood.*
> (6 P 515, p. 544-545) (Emphasis supplied); and

WHEREAS, the principles in the case of *Worcester v. Georgia* are ancient as shown above and are the foundation of the principles announced by the U. S. Supreme Court three quarters of a century later relating to the Yakima Indian Nation in the case of *United States v. Winans (198 U.S.* 371). Title of the Indians in their property rights was fully acknowledged, and the Treaty was interpreted as a grant of property to the United States in the area not reserved by the Tribe to itself.

> *The right to resort to the fishing places in controversy was a part of larger rights possessed by the Indians, upon the exercise of which there was not a shadow of impediment, and which were not less necessary to the existence of the Indians than the atmosphere they breathed. New conditions came into existence, to which those rights had to be accommodated. Only a limitation of them, however, was necessary and intended, not a taking away. In other words the Treaty was not a grant of rights to the Indians, but a grant of rights from them - a reservation of those not granted.*

(Emphasis supplied); and

WHEREAS, the Supreme Court case of *Henry Winters v. United States* (207 US 564) found that reservation of water for the purposes of civilization was implied in the establishment of the Reservations:

> *The Reservation was a part of a very much larger tract which the Indians had the right to occupy and use and which was adequate for the habits and wants of a nomadic and uncivilized people. It was the policy of the Government, it was the desire of the Indians, to change those habits and to become a pastoral and civilized people. If they should become such the original tract was too extensive, but a smaller tract would be adequate with a change of conditions. The lands were arid and, without irrigation, were practically valueless.*
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> *... That the Government did reserve them we have decided, and for a use which would be necessarily continued through years. This was done May 1, 1888, [at Fort Belknap] and it would be extreme to believe that within a year later [when the state of Montana was created] Congress destroyed the Reservation and took from the Indians the consideration of their grant, leaving them a barren waste - took from them the means of continuing their old habits, yet did not leave them the power to change to new ones."* (207 U S 574, p. 576 577); and

WHEREAS, the case of *United States v. Ahtanum Irrigation District* (236 Fed 2nd 321, 1956) applied the *Worcester-Winans-Winters* concepts on Ahtanum Creek, tributary to the Yakima River and northern boundary of the Yakima Indian Reservation:

> *The record here shows that an award of sufficient water to irrigate the lands served by the Ahtanum Indian irrigation project system as contemplated in the year 1915 would take substantially all of the waters of Ahtanum Creek. It does not appear that the waters decreed to the Indians in the Winters case operated to exhaust the entire flow of the Milk River, but, if so, that is merely the consequence of it being a larger stream. As the Winters case, both here and in the Supreme Court, shows, the Indians were awarded the paramount right regardless of the quantity remaining for the use of white settlers. Our Conrad Inv. Co. Case, supra, held that what the non-Indian appropriators may have is only the excess over and above the amounts reserved for the Indians. It is plain that if the amount awarded the United States for the benefit of the Indians in the Winters Case equaled the entire flow of the Milk River, the decree would have been no different.* (236 F. 2nd 321, p. 327) (Emphasis supplied); and

WHEREAS, these concepts were further advanced in *Arizona v California*, 373 U.S. 546, 596-601 (1963):

> *The Master found as a matter of fact and law that when the United States created these reservations or added to them, it reserved not only land but also the use of enough water from the Colorado [River] to irrigate the irrigable portions of the reserved lands. The aggregate quantity of water which the Master held was reserved for all the reservations is about 1,000,000 acre-feet to be used on around 135,000 irrigable acres of land....*

It is impossible to believe that when Congress created the Great Colorado River Indian reservation and when the Executive Department of this Nation created the other reservations they were unaware that most of the lands were of desert kind -- hot scorching sands -- and the water from the River would be essential to the life of the Indian people and to the animals they hunted and crops they raised. We follow it [Winters] now and agree that the United States did reserve the water rights for the Indians effective as of the time Indian Reservations were created. This means, as the Master held, that these water rights, having vested before the Act [Boulder Canyon Project Act] became effective on June 25, 1929, are present perfected rights and as such are entitled to priority under the Act. We also agree with the Master's conclusion as to the quantity intended to be reserved. He found that water was intended to satisfy the future as well as present needs of the Indian reservations.... We have concluded, as did the Master, that the only feasible and fair way by which reserved water for the reservations can be measured is irrigable acreage. The various acreage of irrigable land which the Master found to be on the different reservations we find to be reasonable; and

General Nature of Attacks on Winter Doctrine

WHEREAS, notwithstanding the injunctions of Lord Baltimore, King George III and favorable decisions of the United States Supreme Court, in practice, Congress, the executive branch and the judiciary have (1) limited Indian reserved water rights, (2) suppressed development of Indian reserved water rights, and (3) permitted reliance by state, federal, environmental and private interests on Indian water, contrary to trust obligations. The federal policy has clearly been .. *how best to transfer Indian lands and resources to non-Indians*... rather than to preserve, protect, develop and utilize those resources for the benefits of the Indians.

With an opportunity to study the history of the Winters rule as it has stood now for nearly 50 years, we can readily perceive that the Secretary of the Interior, in acting as he did, improvidently bargained away extremely valuable rights belonging to the Indians.... viewing this contract as an improvident disposal of three quarters of that which justly belonged to the Indians, it cannot be said to be out of character with the sort of thing which Congress and the Department of the Interior has been doing throughout the sad history of the Government's dealings with the Indians and Indian tribes. That history largely supports the statement: From the very beginnings of this nation, the chief issue around which federal Indian policy has revolved has been, not how to assimilate the Indian nations whose lands we usurped, but how best to transfer Indian lands and resources to non-Indians. (*United States v Ahtanum Irrigation District*, 236 F. 2nd 321, 337); and

WHEREAS, the McCarran Amendment interpretation by the United States Supreme Court, if not in error, is a further example of the contemporary attack on Indian water rights. The discussion of the McCarran Amendment here is intended to show why tribes are (1) opposed to state court adjudications and (2) negotiated settlements under the threat of state court adjudication. In 1952 the McCarran Amendment, 43 U.S.C. 666 (a), was enacted as follows:

Consent is given to join the United States as a defendant in any suit (1) for the adjudication of rights to the use of water of a River system or other source, or (2) for the administration of such rights, where it appears that the United States is the owner or in the process of acquiring water rights by appropriation under State law, by purchase, by exchange or otherwise, and the United States is a necessary party to such suit; and

WHEREAS, the McCarran Amendment has been interpreted by the U.S. Supreme Court to require the adjudication of Indian water rights in state courts. *Arizona v San Carlos Apache Tribe*, 463 U.S. 545,564,573 (1981) held:

We are convinced that, whatever limitation the Enabling Acts or federal policy may have originally placed on State Court jurisdiction over Indian water rights, those limitations were removed by the McCarran Amendment.

In dissent, however, Justice Stevens stated:

To justify virtual abandonment of Indian water right claims to the State courts, the majority relies heavily on Colorado River Water Conservancy District, which in turn discovered an affirmative policy of federal judicial application in the McCarran Amendment. I continue to believe that Colorado River read more into that amendment that Congress intended... Today, however, on the tenuous foundation of a perceived Congressional intent that has never been articulated in statutory language or legislative history, the Court carves out a further exception to the virtually unflagging obligation of Federal courts to exercise their jurisdiction. The Court does not -- and cannot -- claim that it is faithfully following general principles of law... That Amendment is a waiver, not a command. It permits the United States to be joined as a defendant in state water rights adjudications; it does not purport to diminish the United States right to litigate in a federal forum and it is totally silent on the subject of Indian tribes rights to litigate anywhere. Yet today the majority somehow concludes that it commands the Federal Courts to defer to State Court water right proceedings, even when Indian water rights are involved; and

WHEREAS, in Arizona, Montana and other states, general water right adjudications to quantify *Winters* Doctrine rights are ongoing. For example in the state of Montana:

(1) the state of Montana sued all tribes in a McCarran Amendment proceeding.

(2) the State of Montana established a Reserved Water Rights Compact Commission. The purpose of the Commission was to negotiate the *Winters* Doctrine rights of the Montana tribes.

(3) the Department of Interior has adopted a negotiation policy for the settlement of Indian water rights. The United States Department of Interior has a negotiating team which works with the Montana Reserve Water Rights Compact Commission and Indian tribes, some forced by the adjudication in

state court, to negotiate, while others are willing to negotiate.

(4) the Department of Interior makes all necessary funding available to any Tribe willing to undertake negotiations. A Tribe refusing to negotiate cannot obtain funding to protect and preserve its *Winters* Doctrine water rights.

(5) upon reaching agreement between the State of Montana and an Indian tribe, congressional staff are assigned to develop legislation in the form of an Indian water rights settlement that may or may not involve authorization of federal appropriations to develop parts of the amount of Indian water agreed upon between the Tribe and the State or for other purposes.

(6) in the absence of the desire of a Tribe to negotiate, the State of Montana will proceed to prosecute its McCarran Amendment case against the Tribe; and

WHEREAS, this process relies on ongoing litigation to accomplish negotiated settlements of *Winters* Doctrine Indian water rights. The process is held out to be a success by the state and federal governments. However, comparison with the taking of the Black Hills from the Great Sioux Nation, the taking of the Little Rocky Mountains from the Fort Belknap Indian Reservation and the taking of Glacier Park from the Blackfeet are valid comparisons. There are elements of force and extortion in the process; and

WHEREAS, in the Wind River adjudication, 753 P. 2nd 76, 94-100 (WY 1988), the State of Wyoming utilized the McCarran Amendment to drastically diminished the Arapaho and Shoshone *Winters* Doctrine water rights in the Big Horn River Basin. The Wyoming Supreme Court found as follows:

> *The quantity of water reserved is the amount of water sufficient to fulfill the purpose of the lands set aside for the Reservation.*
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> *The Court, while recognizing that the tribes were the beneficial owners of the reservations timber and mineral resources... and that it was known to all before the treaty was signed that the Wind River Indian Reservation contained valuable minerals, nonetheless concluded that the purpose of the reservation was agricultural. The fact that the Indians fully intended to continue to hunt and fish does not alter that conclusion.... The evidence is not sufficient to imply a fishery flow right absent a treaty provision.... The fact that the tribes have since used water for mineral and industrial purposes does not establish that water was impliedly reserved in 1868 for such uses. The District Court did not err in denying a reserved water right for mineral and industrial uses... the District Court did not err in holding that the Tribes and the United States did not introduce sufficient evidence of a tradition of wildlife and aesthetic preservation that would justify finding this to be a purpose for which the Reservation was created or for which water was impliedly reserved... not a single case applying the*

> *reserved water right doctrine to groundwater is cited to us.... In Colville Confederated Tribes v. Walton, supra, 547 F 2d 42, there is slight mention of the groundwater aquifer and of pumping wells, Id at 52, but the opinion does not indicate that the wells are a source of reserved water or even discuss a reserve groundwater right.... The District Court did not err in deciding there was no reserved groundwater right;* and

WHEREAS, the statement by the Wyoming Supreme Court that *Colville* does not discuss a reserved water right to groundwater is in error, for Colville did decree reserved groundwater rights; and

WHEREAS, the *Wind River* case must be carefully examined by all tribes, including those of the Missouri River Basin. The single purpose of the Wind River Indian Reservation recognized by the Wyoming Supreme Court was limited to agriculture: severely limited relative to the... *Rights, Jurisdictions, Privileges, Prerogatives, Royalties, Liberties, Immunities, and Royal Rights and Temporal Franchises whatsoever, ... within the Region,* ..comprehending... *'all the soil, plains, woods, mountains, marshes, Lakes, Rivers, Days, and Straits, with the fishing of every kind, within the said limits'; all mines of whatsoever kind*...received by from the King by Lord Baltimore in the Proprietary of Maryland, which were, nevertheless, subject to purchase from the Native possessors. The Arapaho and Shoshone must have believed that the purpose of the reservation was to provide a permanent home and abiding place for their present and future generations to engage and pursue a viable economy and society. Despite existing oil and gas resources, they were denied reserved water for mineral purposes. Despite the need for industry in a viable economy, they were denied reserved water for industry. Despite a tradition of hunting and fishing, they were denied reserved water for wildlife and aesthetic preservation. Despite the existence of valuable forests, they were denied reserved water for this purpose. Despite the existence of valuable fisheries, established from time immemorial, they were denied a reserved water right to sustain their fisheries; and

WHEREAS, the United States Supreme Court reviewed the *Wind River* decision on the following question:

> *In the absence of any demonstrated necessity for additional water to fulfill reservation purposes and in presence of substantial state water rights long in use on the reservation, may reserved water rights be implied for all practicably irrigable lands within reservation set aside for specific Tribe?* 57 LW 3267 (Oct. 11, 1988); and

WHEREAS, acting without a written opinion and deciding by tie vote, the United States Supreme Court affirmed the decision of the Supreme Court of the State of Wyoming and rejected the thought process presented in the question above that the Tribes needed no additional water than the amount they were using and that state created water rights with long use should not be subjected to future Indian water rights. But a change in vote by a single justice would have reversed the decision and severely

constricted the benefits of the *Winters* Doctrine to the Indian people, a subject to be discussed further. The decision is limited to the State of Wyoming on critical issues, namely that Indian reserved rights do not apply to groundwater; the absence of a reserved water right for forest and mineral purposes; the absence of a reserved water right for fish, wildlife and aesthetic preservation; and a reduction of the Tribes claims to irrigation from 490,000 to less than 50,000 acres; and

WHEREAS, the acreage for irrigation finally awarded to the Wind River Tribes for future purposes was 48,097 acres involving approximately 188,000 acre-feet of water annually:

> *In determining the Tribes claims to practicably irrigable acreage, the United States [trustee for the tribes] began with an arable land-base of approximately 490,000 and relied on its experts to arrive at over 88,000 practicably irrigable acres. The claim was further "trimmed" by the United States to 76,027 acres for final projects. The acreage was further reduced during trial to 53,760 acres by Federal experts with a total annual diversion requirement of about 210,000 acre-feet.* (Teno Roncalio, Special Master. In Re: The General Adjudication of All Rights to the Use of Water in the Big Horn River System and All Other Sources, State of Wyoming, Concerning Reserved Water Right Claims by and on Behalf of the Tribes of the Wind River Indian Reservation, Wyoming, Dec. 15, 1982, pp. 154 and 157); and

WHEREAS, the *purposes* of reservation issue addressed by the Wyoming courts evolved from the 1978 United States Supreme Court case, *United States v. New Mexico* (438 U.S. 696), involving the water rights of the Gila National Forest:

> *The Court has previously concluded that Congress, in giving the President the power to reserve portions of the federal domain for specific federal purposes, impliedly authorized him to reserve "appurtenant water then unappropriated to the extent needed to accomplish the purpose of the reservation."... The Court has repeatedly emphasized that Congress reserved "only that amount of water necessary to fulfill the purpose of the reservation, no more."... Where water is only valuable for a secondary use of the reservation, however, there arises the contrary inference that Congress intended, consistent with its other views, that the United States would acquire water in the same manner as any other public or private appropriator.... The legislative debates surrounding the Organic Administration Act of 1897 and its predecessor bills demonstrate that Congress intended national forests to be reserved for only two purposes -- "to conserve the water flows, and to furnish a continuous supply of timber for the people."... Not only is the Government's claim that Congress intended to reserve water for recreation and wildlife preservation inconsistent with Congress's failure to recognize these goals as purposes of the national forest, it would defeat the very purpose for which Congress did intend the national forest system.... While Congress intended the national forest to be put to a variety of uses, including stockwatering, not inconsistent with the two principal purposes of the forest, stock watering was not, itself, a direct purpose of reserving the land;* and

WHEREAS, there may be debate with respect to the purposes for which a national

forest was created and for which purposes water was reserved, but it is a "slender reed" upon which to found a debate that when Indian reservations were established by the Indians or Great Britian or the United States, the purpose of establishment might vary among the Indian reservations; and, depending upon that purpose, the Indians would be limited in the beneficial uses to which water could be applied. Indian neighbors could apply water to any beneficial purpose generally accepted throughout the Western United States, but Indians could not. It is inconceivable that an Indian Reservation was established for any other "purpose" than an "Indian" reservation or that each Reservation was established for some arcane reason other than the pursuits of industry, self-government and all other activities associated with a modern, contemporary and ever-changing society embracing all of the ... *Rights, Jurisdictions, Privileges, Prerogatives,... and Temporal Franchises whatsoever, ... within the Region,* ..comprehending... *'all the soil, plains, woods, mountains, marshes, Lakes, Rivers, Days, and Straits, with the fishing of every kind, within the said limits'; all mines of whatsoever kind*; and

WHEREAS, nevertheless, the Wyoming courts relied upon the "purposes" argument to exclude water reserved for the pursuit of many of the arts of civilization.... industry, mineral development, fish, wildlife, aesthetics... on the basis that the purpose of the Wind River Indian Reservation was limited to an agricultural purpose absent specific Treaty language to the contrary. As crude as this conclusion may be, however, Tribes of the Missouri River basin and throughout the Western United States are faced with the "purposes" limitation originally applied in 1978 to national forests; and

WHEREAS, if there may be a question that the issue ended in Wyoming, it is only necessary to examine the state court general adjudication process in Arizona. A June 2000 pretrial order by the Special Master in the *General Adjudication of All Rights to Use Water in the Gila River System and Source* summarizes the issues as follows:

> *... Does the "primary-secondary" purposes distinction, as announced by the U.S. Supreme Court in United States v. New Mexico, 438 U.S. 696 (1978), apply to the water rights claimed for the Gila River Indian Reservation?...*
>
> *.... The State Litigants takes the position that the distinction does apply.*
>
> *... If the "primary-secondary" purposes distinction does apply to the Gila River Indian Reservation, what were the primary and secondary purposes for each withdrawal or designation of land for the Gila River Indian Reservation? May the Reservation have more than one "primary" purpose?....*
>
> *.... The State Litigants takes a position that the federal government withdrew or designated land to protect existing agriculture, create a buffer between the community and non-Indians who were settling in the area, provide substitute agricultural lands when non-Indians encroached on existing Indian agricultural lands, and provide for other specific economic activities such as grazing;* and

WHEREAS, the restriction or limitation of Indian water rights in the Missouri River basin is not confined to a federal denial of them in federal actions, such as the Master Manual and endangered species consultation. The limitations are expected to grow and expand from these federal actions. Indian water right opponents will concentrate on the language of *United States v. New Mexico* that *"...only that amount of water necessary to fulfill the purpose of the reservation, no more...* has been reserved by the Tribes or the United States on behalf of the tribes. The effort will be to first limit the purposes for which an Indian reservation was established and second limit the amount of water necessary to fulfill that purpose. If, for example, opponents could successfully argue that the purpose of an Indian reservation in the Missouri River Basin was primarily a "permanent homeland" and that agriculture was secondary, they would further argue that the amount of water reserved was limited to domestic uses, and no water was reserved for irrigation; and

WHEREAS, *Cappaert v. United States* (426 U.S. 128, 1976) was the basis, in part, for the decision in *United States v. New Mexico* discussed above. Here again the purposes of a "federal" reservation (as distinguished from a reservation by Indians or a reservation by the United States on behalf of Indians) and the use of water for that purpose is the subject. But the Cappaert decision is helpful in showing the extreme interpretations to which the State Court in Wyoming went in its *Wind River* decision:

> *....The District Court then held that, in establishing Devil's Hole as a national monument, the President reserved appurtenant, unappropriated waters necessary to the purpose of the reservation; the purpose included preservation of the pool and pupfish in it.... The Court of Appeals for the Ninth Circuit affirmed... holding that the "implied reservation of water" doctrine applied to groundwater as well as surface water...*and

WHEREAS, the purpose of establishing the national monument was clearly limited -- to preserve the Devil's Hole pupfish, which rely on a pool of water that is a remnant of the prehistoric Death Valley Lake System an object of historic and scientific interest. This is not an Indian reservation which embraces all of the purposes related to civilization, society and economy. Yet, Wyoming seized on the concept of an Indian reservation with purpose limited in the same manner as a national forest or a national monument. Note, however, that the Wyoming case (1988) grasps at the purposes argument to diminish the Indian water right but ignores the damaging aspect of *Cappaert* (1976) that reserved water concepts apply to groundwater as well as surface water. Not only did Wyoming ignore *Colville Confederated Tribes*, it ignored *Cappaert*. Recently, the Arizona Supreme Court, after considering the Wyoming decision, could not countenance a similar decision in Arizona, specifically rejected the Wyoming decision and found as follows:

> *...the trial court correctly determined that the federal reserved water rights doctrine applies not only to surface water but to groundwater...*and*...holders of federal reserved rights enjoy greater protection from groundwater pumping than do holders of state law rights...*; and

WHEREAS, similarly, Wyoming ignored *Cappaert*, a U.S. Supreme Court decision about federally reserved water rights in a National Monument in Nevada, where *Cappaert* specifically rejected the concept of "sensitivity" or balancing of equities when water is needed for the purpose of a federal or Indian Reservation. In *Cappaert* the Court cited the *Winters* decision as a basis for rejecting the notion of Nevada that competing interests must be balanced between federal (or Indian) reserved water rights and competing non-federal (or non-Indian) water rights. Wyoming returned to the U.S. Supreme Court seeking a more favorable decision respecting "sensitivity" than provided by *Cappaert*:

> *Nevada argues that the cases establishing the doctrine of federally reserved water rights articulate an equitable doctrine calling for a balancing of competing interests. However, an examination of those cases shows they do not analyze the doctrine in terms of a balancing test. For example, in Winters v. United States, supra, the Court did not mention the use made of the water by the upstream landowners in sustaining an injunction barring their diversions of the water. The "Statement of the Case" in Winters notes that the upstream users were homesteaders who had invested heavily in dams to divert the water to irrigate their land, not an unimportant interest. The Court held that, when the Federal Government reserves land, by implication, it reserves water rights sufficient to accomplish the purposes of the reservation;* and

WHEREAS, the United States Supreme Court reviewed the decision of the Wyoming Supreme Court and upheld the decision by a tie vote as discussed above. However, the majority of the court had apparently been swayed by the Wyoming argument:... *In the absence of any demonstrated necessity for additional water to fulfill reservation purposes and in presence of substantial state water rights long in use on the reservation, may reserved water rights be implied for all practicably irrigable lands within reservation set aside for specific Tribe?...* and had prepared a draft opinion referred to by the Arizona Supreme Court as the "ghost" opinion. The draft opinion was apparently not issued because Justice Sandra Day O'Connor, author of the "ghost" opinion on behalf of the majority, disqualified herself because she learned that her ranch had been named as a defendant in the Gila River adjudication in Arizona. Despite more than 350 years of understanding of justice and law relating to Indian property, the O'Connor opinion would have destroyed the basic tenets of the *Winters* Doctrine:

> *...The PIA standard is not without defects. It is necessarily tied to the character of land, and not to the current needs of Indians living on reservations....And because it looks to the future, the PIA standard, as it has been applied here, can provide the Tribes with more water than they need at the time of the quantification, to the*

detriment of non-Indian appropriators asserting water rights under state law....this Court, however, has never determined the specific attributes of reserve water rights – whether such rights are subject to forfeiture for nonuse or whether they may be sold or leased for use on or off the Reservation....Despite these flaws and uncertainties, we decline Wyoming's invitation to discard the PIA standard... The PIA standard provides some measure of predictability and, as explained hereafter, is based on objective factors which are familiar to courts. Moreover no other standard that has been suggested would prove as workable as the PIA standard for determining reserve water rights for agricultural reservations....we think Master Roncolio and the Wyoming Supreme Court properly identified three factors that must be considered in determining whether lands which have never been irrigated should be included as PIA: the arability of the lands, the engineering feasibility (based on current technology) of necessary future irrigation projects, and the economic feasibility of such projects (based on the profits from cultivation of future lands and the costs of the project... Master Roncolio found...that economic feasibility will turn on whether the land can be irrigated with a benefit-cost ratio of one or better....Wyoming argues that our post-Arizona I cases, specifically Cappaert and New Mexico, indicate that quantification of Indian reserved water rights must entail sensitivity to the impact on state and private appropriators of scarce water under state law.... Sensitivity to the impact on prior appropriators necessarily means that "there has to be some degree of pragmatism" in determining PIA....we think this pragmatism involves a "practical" assessment – a determination apart from the theoretical economic and engineering feasibility – of the reasonable likelihood that future irrigation projects, necessary to enable lands which have never been irrigated to obtain water, will actually be built....no court has held that the Government is under a general legal or fiduciary obligation to build or fund irrigation projects on Indian reservations so that irrigable acreage can be effectively used..... massive capital outlays are required to fund irrigation projects...and in today's era of budget deficits and excess agricultural production, government officials have to choose carefully what projects to fund in the West. ... Thus, the trier of fact must examine the evidence, if any, that additional cultivated acreage is needed to supply food or fiber to resident tribal members, or to meet the realistic needs of tribal members to expand their existing farming operations. The trier must also determine whether there will be a sufficient market for, or economically productive use of, any crops that would be grown on the additional acreage....we therefore vacate the judgment insofar as it relates to the award of reserved water rights for future lands and remand the case to the Wyoming Supreme Court for proceedings not inconsistent with this opinion; and

WHEREAS, the United States Supreme Court has virtually unlimited power to arrive at unjust decisions as evidenced by the *Dred Scott* decision, and the opinion of the minority would have had no force and effect in *Wyoming* as given by Justice Brennan:

...In the Court might well have taken as its motto for this case in the words of Matthew 25:29: "but from him that has not shall be taken away even that which he has." When the Indian tribes of this country were placed on reservations, there was, we have held, sufficient water reserved for them to fulfill the purposes of the reservations. In most cases this has meant water to irrigate their arable lands.... The Court now proposes, in effect, to penalize them for the lack of Government investment on their reservations by taking from them those water rights that have remained theirs, until now, on paper. The requirement that the tribes demonstrate a "reasonable likelihood" that irrigation

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projects already determined to be economically feasible will actually be built – gratuitously superimposed, in the name out "sensitivity" to the interests of those who compete with the Indians for water, upon a workable method for calculating practicably irrigable acreage that parallels government methods for determining the feasibility of water projects for the benefit of non-Indians – has no basis in law or justice; and

WHEREAS, whether inspired by the "ghost" opinion of Justice O'Connor or not, the Arizona Supreme Court held arguments in February 2001 on the issue of: "what is the appropriate standard to be applied in determining the amount are water reserved for federal lands?", particularly Indian lands, which were not reserved by the United States for the Standing Rock Sioux Tribe but were, rather, reserved by the Tribe by its ancient ancestors from time immemorial. The outcome by the Arizona Supreme Court is immaterial but provides the question for review by the United States Supreme Court with full knowledge from the "ghost" opinion of the probable outcome. The Salt River Project and Arizona, principal losers in *Arizona v California I*, make the following arguments in *Gila* River against Indian reserved rights to the use of water:

...Under the United States Supreme Court's decision in United States v New Mexico..., all federal land with a dedicated federal purpose "has reserved to it that minimum amount of water which is necessary to effectuate the primary purpose of the land set aside." Judge Goodfarb also found, however, that this "purposes" test does not apply to Indian reservations. Instead, he held that, for Indian reservations, "the courts have drawn a clear and distinct line"....that mandates that reserved rights for all Indian reservations must be quantified based on the amount of "water necessary to irrigate all of the practicably irrigable acreage (PIA) on that Reservation" without considering the specific purposes for which the Reservation was created....this interlocutory proceeding with respect to Issue 3 arose because Judge Goodfarb incorrectly ruled (as a matter of law and without the benefit of any factual record, briefing, or argument) that PIA applies to all Indian reservations...

....as shown below, the Supreme Court in that case [Arizona I] and the courts in all reported decisions since that time, have applied the following analysis: first, review the historical evidence relating to the establishment of the Reservation and, from that evidence, determine the purposes for which the specific land in question was reserved (a question of fact). Second, determine, based upon the evidence, the minimum quantity of water necessary to carry out those purposes (a mixed question of law and fact). ...and in Colville Confederated Tribes V. Walton, for instance, the ninth circuit stated:. "to identify the purposes for which the Colville Reservation was created, we consider the document and circumstances surrounding its creation, and the history of the Indians for whom it was created. We also consider their need to maintain themselves under changed circumstances."

...the Zuni Reservation in northeastern Arizona, for example, was established

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by Congress expressly "for religious purposes."...the original 1859 creation of the Gila Reservation and each of the seven subsequent additions had different rationales and were intended to address different purposes or combinations of purposes (e.g. protecting existing farmlands, adding lands for grazing, including lands irrigated by Indians outside the Reservation as part of the Reservation...

....in addition to varying in size, Indian reservations also vary in location and terrain. Reservations in Arizona, for instance, run the gamut from desert low lands to the high mountains and everything in between. Certain reservations along the Colorado River include fertile but arid river bottom land and were created for the purpose of converting diverse groups of "nomadic" Indians to a "civilized" and agrarian way of life...other reservations, such as the Navajo Reservation in extreme northeastern Arizona, consist largely of "very high plateaus, flat-top mesas, inaccessible buttes and deep canyons. "....there can be little doubt that the PIA standard works to the advantage of tribes inhabiting alluvium plains or other relatively flat lands adjacent to stream courses. In contrast, tribes inhabiting mountainous or other agriculturally marginal terrains are at a severe disadvantage when it comes to demonstrating that their lands are practicably irrigable....

...the special master [Arizona I] conducted a trial, accepted and reviewed substantial evidence regarding the purposes of the five Indian reservations at issue in that case, made factual findings as to purposes, and only then found that the minimum amount of water necessary to carry out those purposes was best determined by the amount of water necessary to irrigate all "practicably irrigable" acres on those reservations. ....the special master stated: "moreover the 'practicably irrigable' standard is not necessarily a standard to be used in all cases and when it is used it may not have the exact meaning it holds in this case. The amount reserved in each case is the amount required to make each Reservation livable."

...although the United States Supreme Court affirmed the Wyoming court's decision in that case without opinion, events surrounding that review shed considerable light on the Supreme Court's concerns about the continued viability of PIA as a standard, at least in the form it was applied in Arizona I. ....several Justices challenged the United States's defense of PIA...."at this point, Chief Justice Rehnquist challenged the precedential validity of Arizona I by noting that the opinion 'contains virtually no reasoning' and the Court merely had accepted the special master's conclusion as to the PIA standard...arguing that Congress must of contemplated the size of the tribe that would live on the Wind River Reservation, ...the Chief Justice stated that he found it difficult to believe that 'in 1868 Congress...should be deemed have said we're giving up water to irrigate every – every inch of arable land. No matter how large the tribe they thought they were settling. Did they expect to make some tribes very rich so that they can have an enormous export business... in agricultural products?" (State Litigant's Opening Brief on

Interlocutory Issue 3, Gila River Adjudication); and

Historical Analysis of Thought Processes Embraced by Master Manual

WHEREAS, the means employed by the Corps of Engineers to deny consideration of Indian water rights in the preparation of the Master Manual and those same means employed by the Department of Interior to deny consideration of Indian water rights in baseline environmental studies of endangered species have been presented. Also, presented was the favorable body of law supporting the proper consideration of Indian water rights followed by the denigration of that law in state court adjudications, namely in Wyoming and, more recently, in Arizona. Briefly examined here are historical examples of the diminishment of property rights by a superior force and the strikingly similar arguments in support of that diminishment, and

WHEREAS, the concepts and techniques for diminishing the water rights of the Standing Rock Sioux Tribe in the Missouri River, its tributaries and aquifers are not novel. The colonization of Ireland by the English (*circa* 1650), for example, was justified in a manner that provides insight in the federal treatment of Indian water rights in the Missouri River Basin. Sir Thomas Macaulay, a prominent English politician in the first half of the 19th-century and one of the greatest writers of his or any other era, rationalized the taking of land from the native Irish and the overthrow of King James II in 1692, which overthrow was due, in part, to the King's efforts to restore land titles to the native Irish: (Sir Thomas Macaulay, 1848, *The History of England*, Penguin Classics, pp 149-151)

> *To allay national animosity such as that which the two races [Irish and English] inhabiting Ireland felt for each other could not be the work of a few years. Yet it was a work to which a wise and good Prince might have contributed much; and King James II would have undertaken that work with advantages such as none of his predecessors or successors possessed. At once an Englishman and a Roman Catholic, he belonged half to the ruling and half to the subject cast, and was therefore peculiarly qualified to be a mediator between them. Nor is it difficult to trace the course which he ought to have pursued. He ought to have determined that the existing settlement of landed property should be in violable; and he ought to have announced that determination in such a manner as effectually to quiet the anxiety of the new proprietors, and to extinguish any wild homes which the old proprietors might entertain. Whether, in the great transfer of estates, injustice had or had not been committed, was immaterial. The transfer, just or unjust, had taken place so long ago, that to reverse it would be to unfix the foundations of society. There must be a time limitation to all rights. After thirty-five years of actual possession, after twenty-five years of possession solemnly guaranteed by statute, after innumerable leases and releases, mortgages and devises, it was too late to search for flaws in titles. Nevertheless something might have been done to heal the lacerated feelings and to raise the fallen fortunes of the Irish gentry. The colonists were in a thriving condition. They had greatly improved their property by building, planting and fencing..... There was no doubt that the next Parliament which should meet at Dublin, though representing almost exclusively the English interest, would, in return for the King's promise to maintain that interest in all its legal rights, willingly grant to him a considerable sum for the purpose of indemnifying, at*

least in part, such native families as had been wrongfully despoiled.

Having done this, he should have labored to reconcile the hostile races to each other by impartially protecting the rights and restraining the excesses of both. He should have punished with equal severity that native who indulges in the license of barbarism and the colonists who abused the strength of civilization..... no man who was qualified for office by integrity and ability should have been considered as disqualified by extraction or by creed for any public trust. It is probable that a Roman Catholic King, with an ample revenue absolutely at his disposal, would, without much difficulty, have secured the cooperation of the Roman Catholic prelates and priests in the great work of reconciliation. Much, however, might still have been left to the healing influence of time. The native race might still have had to learn from the colonists industry and forethought, arts of life, and the language of England. There could not be equality between men who lived in houses and men who lived in sties, between men who were fed on bread and men who were fed on potatoes, between men who spoke the noble tongue of great philosophers and poets and men who, with the perverted pride, boasted that they could not writhe their mouths into chattering such a jargon as that in which the Advancement of Learning and the Paradise Lost were written. Yet it is not unreasonable to believe that if the gentle policy which has been described had been steadily followed by the government, all distinctions would gradually have been effaced, and that there would now have been no more trace of the hostility which has been the curse of Ireland ...and

WHEREAS, the Master Manual rationale... *Currently, such reserved or aboriginal rights of tribal reservations have not been quantified in an appropriate legal forum or by compact with three exceptions.... The Study considered only existing consumptive uses and depletions; therefore, no potential tribal water rights were considered....* or the ESA rationale.... *The environmental baseline used in ESA Section 7 consultations on agency actions affecting riparian ecosystems should include for those consultations the full quantum of: (a) adjudicated (decreed) Indian water rights; (b) Indian water rights settlement act; and (c) Indian water rights otherwise partially or fully quantified by an act of Congress... Biological opinions on proposed or existing water projects that may affect the future exercise of senior water rights, including unadjudicated Indian water rights, should include a statement that project proponents assume the risk that the future development of senior water rights may result in a physical or legal shortage of water....* does not represent a significant step forward from that advanced by Macaulay given the opportunity of 150 years for refinement in America. There cannot be significant differences between the statement of the Corps of Engineers and the Macaulay logic; and

WHEREAS, it is material, not immaterial, whether there has been injustice or a fitting of the law to the purpose in the transfer of Standing Rock waters of the Missouri River, its tributaries and its aquifers to non-Indians in the Master Manual update. It is rejected as correct ... that after the new proprietor's (downstream navigation, upstream recreation and endangered species) have enjoyed the Indian "estate" for a period of 25 to 35 years, the wild hopes of the Indian proprietors for participation must be extinguished. It is rejected as correct that the lacerated Indian feelings be healed, or for a considerable sum, despoiled Indian families can be made whole and the new possessors of Standing Rock Sioux water rights can be indemnified. It is rejected as proper that this be justified on the basis that the new possessor has greater industry, forethought, arts of life, language, diet, and housing. It is rejected

as untrue that after numerous leases, releases, and mortgages by non-Indians relying upon unused Indian *Winters* doctrine water rights, it is too late to search for flaws in titles. It is accepted as true that the Master Manual promotes reliance by non-Indians upon unused Indian *Winters* doctrine water rights; and

WHEREAS, the rationale of Supreme Court Justices, Master Manual and ESA is but a limited improvement from historical examples even earlier than Macaulay. Over 400 years ago, the sovereigns of England and Scotland, upon their union, sought possession of the borderlands between the two nations and to dispossess the native tribal inhabitants. The following provides the rationale of the Bishop of Glasgow against those ancient inhabitants as they sought (in vain) to stay in possession of their ancient lands:

I denounce, proclaim and declare all and sundry acts of the said murders, slaughters,... thefts and spoils openly upon daylight and under silence of night, all within temporal lands as Kirklands; together with their partakers, assistants, suppliers, known receivers and their persons, the goods reft and stolen by them, art or part thereof, and their counselors and defenders of their evil deeds generally CURSED, execrated, aggregate and re-aggregate with the GREAT CURSING.

I curse their head and all their hairs on their head; I curse their face, their eye, their mouth, their nose, their tongue, their teeth, their crag, their shoulders, their breast, their heart, their stomach, their back, their wame (belly), their arms, their legs, their hands, their feet, and every part of their body, from the top of their head to the sole of their feet, before and behind, within and without.

I curse them going and I curse them are riding; I curse them standing, and I curse them sitting; I curse them eating, I curse them drinking; I curse them walking, I curse them sleeping; I curse them arising, I curse them laying; I curse them at home, I curse them from home; I curse them within the house, I curse them without the house; I curse their wives, their barns, and their servants participating with them in their deeds. I wary their corn, their cattle, their wool, their sheep, their horses, their swine, their geese, their hens, and all their livestock. I wary their halls, their chambers, their kitchens, their storage bins, their barns, their cowsheds, their barnyards, their cabbage patches, their plows, their harrows, and the goods and houses that is necessary for their sustenance and welfare.

The malediction of God that lighted upon Lucifer and all his fellows, that struck them from the high heaven to the deep hell, must light upon them. The fire in the sword that stopped Adam from the gates of Paradise, must stop them from the glory of heaven until they forbear and make amends; and

WHEREAS, truly, the rationale of the Master Manual may be a slight improvement in the techniques that were used to justify dispossession 400 years ago and represents progress, Standing Rock and other tribes have repeatedly encountered equally effective, if less colorful, opposition to their efforts to preserve, protect, administer and utilize their water rights; and

WHEREAS, the distinguishing feature for the Standing Rock Sioux Tribe, however, is

the fact that the water right "estate" in the Missouri River has not been taken from them, even though it is under attack in the Master Manual. It is proposed in the Master Manual to commit water away from the Indians, but the process is not accomplished, and those who would rely on unused Indian water rights have not yet taken possession and executed mortgages, leases and releases on the basis of them. The Standing Rock Sioux Tribe remain in position to retain its "estate" in the Missouri River by rejecting the Master Manual and taking affirmative action to protect its ancient and intact possessions; and

WHEREAS, by taking steps to protect their ancient possessions the Standing Rock Sioux Tribe recognizes that it cannot expect support from the United States or its agencies acting as Trustee. Strong reaction can be expected from any current attempt to do so, including strong reaction by the Trustee. First, the Trustee has no funds for litigation of Indian water right issues. Second, the Trustee has considerable funds for settlement of Indian water right issues, but the Indian costs in lost property are great. Third, the Trustee has considerable technical criteria and requirements to impose on the Indian tribes as a basis for limiting the Indian water right "estate": irrigable land criteria, water requirement criteria, limitation on beneficial uses and, most limiting, economic feasibility criteria that few, if any, existing non-Indian water projects could survive.

NOW THEREFORE BE IT RESOLVED THAT, the Tribal Council of the Standing Rock Sioux Tribe rejects the Master Manual Review and Update by the U. S. Army Corps of Engineers for the express reason that it establishes a plan for future operation of the Missouri River addressing inferior downstream navigation, upstream recreation and endangered species water claims of the States and Federal interests and specifically denies proper consideration or any consideration of the superior, vested water rights of the Standing Rock Sioux Tribe while committing reservoir releases to purposes and interests in direct opposition to those of the Tribe.

BE IT FURTHER RESOLVED THAT, the Tribal Council of the Standing Rock Sioux Tribe, seeking to protect and preserve its valuable rights to the use of water in the Missouri River, its tributaries and aquifers upon which the Tribe relies and has relied since ancient times for its present and future generations, directs the Chairman to take all reasonable steps, through the appointment of himself, Tribal Council members and staff to working groups to petition members of Congress and officials at the highest levels in the Bush Administration, including the Department of Justice, among other proper steps, for the single purpose of ensuring a full rejection and re-constitution of the Master Manual as now proposed for action by the Corps to properly reflect the rights, titles and interests of the Standing Rock Sioux Tribe.

BE IT FURTHER RESOLVED THAT, the Tribal Council of the Standing Rock Sioux Tribe proclaims its continued dominion over all of the lands within the boundaries of the Standing Rock Sioux Indian Reservation as reserved from time immemorial including

but not limited to rights, jurisdictions, privileges, prerogatives, liberties, immunities, and temporal franchises whatsoever to all the soil, plains, woods, wetlands, lakes, rivers, aquifers, with the fish and wildlife of every kind, and all mines of whatsoever kind within the said limits; and the Tribal Council declares its water rights to irrigate not less than 303,650 arable acres with an annual diversion duty of 4 acre feet per acre, to supply municipalities, commercial and industrial purposes and rural homes with water for not less than 30,000 future persons having an annual water requirement of 10,000 acre feet annually, to supply 50,000 head of livestock of every kind on the ranges having an annual water requirement of 1,500 acre feet annually: such proclamation made on the basis of the status of knowledge at the start of the third millennia and subject to change to include water for other purposes, such as oil, gas, coal or other minerals, forests, recreation, and etc; and such proclamation for the purposes and amount of water required to be adjustable in the future to better reflect improved knowledge and changing conditions.

BE IT FURTHER RESOLVED THAT, the Tribal Council of the Standing Rock Sioux Tribe directs the Chairman to take all reasonable steps, through the appointment of himself, Tribal Council members and staff to working groups to petition members of Congress and officials at the highest levels in the Bush Administration to support and promote legislation that would, among other things, enable the Standing Rock Sioux Tribe to exercise its rights to the use of water in the Missouri River, in part, by purchasing the generators and transmission facilities of the United States at Oahe Dam at fair market value, subject to such offsets as may be agreed upon, with provisions to sell power generated at Oahe Dam at rates necessary to honor all existing contracts for the sale of pumping power and firm, wholesale power during their present term and sufficient to retire debts of the United States that may be agreed upon; provided, however, that the Tribe may increase power production at the dam by feasible upgrades and market the new power at market rates and after expiration of current contracts market power at rates reflective of the market; and provided further that legislation to purchase generators and transmission facilities will also include provisions to finance wind and/or natural gas power generation on the Standing Rock Indian Reservation to combine with hydropower production, thereby using Tribe's water and land resources effectively for the benefit of the Tribe without further erosion, diminishment and denigration of Tribe's water right claims.

BE IT FURTHER RESOLVED THAT, the Standing Rock Sioux Tribal Council rejects all reports and investigations of the Bureau of Reclamation on the Cannonball and Grand Rivers watersheds and any and all proposals by Bureau of Reclamation for an Indian Small Water Projects Act and that all ongoing efforts of the Bureau of Reclamation respecting these specific efforts will cease by this directive of the Tribal Council.

BE IT FURTHER RESOLVED THAT, the Tribal Council of the Standing Rock Sioux Tribe directs the Chairman to take all reasonable steps, through the appointment of himself, Tribal Council members and staff to working groups, to petition members of Congress,

United States Supreme Court, when engaged in a Whiggish course, to subject the least powerful to the will of the States in matters involving property rights as evidenced by the *Dred Scott*, the *O'Connor Ghost* and comparable decisions of expediency.

BE IT FURTHER RESOLVED THAT, the Chairman and Secretary of the Tribal Council are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

CERTIFICATION

We, the undersigned, Chairman and Secretary of the Tribal Council of the Standing Rock Sioux Tribe, hereby certify that the Tribal Council is composed of (17) members, of whom __12__ constituting a quorum, were present at a meeting thereof, duly and regularly, called, noticed, convened and held on the __5th__ day of April, 2001, and that the foregoing resolution was duly adopted by the affirmative vote of __11__ members, with __0__ opposing, and with __1__ not voting. THE CHAIRMAN'S VOTE IS NOT REQUIRED, EXCEPT IN CASE OF A TIE.

DATED THIS __5th__ DAY OF APRIL, 2001.

Charles W. Murphy, Chairman
Standing Rock Sioux Tribe

ATTEST:

Randal J. White for
Elaine McLaughlin, Secretary
Standing Rock Sioux Tribe

(OFFICIAL TRIBAL SEAL)

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Charles W. Murphy
Chairman

Tom Iron
Vice Chairman

Elaine McLaughlin
Secretary

AT LARGE

Jesse Taken Alive
Reva Gates
Pat McLaughlin
Miles McAllister
Ron Brown Otter
Isaac Dog Eagle, Jr.

DISTRICTS

Robert Cordova
Cannonball District
Raphael See Walker
Fort Yates District
Joe Strong Heart
Wakpala District
Palmer Defender
Kenel District
Dean Bear Ribs
Bear Soldier District
Milton Brown Otter
Rock Creek District
Allen Flying Bye
Little Eagle District
Randal White Sr.
Porcupine District

October 30, 2001

The Honorable Gale A. Norton, Secretary
U. S. Department of the Interior
1849 C. Street N.W.
Washington, DC 20240

RE: Missouri River Master Manual

Dear Secretary Norton:

On October 26, 2001, your Solicitor, Ann Klee, and Deputy Assistant Secretary for Indian Affairs, Sharon Blackwell, among other representatives from agencies of the Department of Interior participated with us in a conference call on the concerns of the Standing Rock Sioux Tribe respecting the Corps of Engineers' Missouri River Master Manual Update and Revision. Ms. Klee and Ms. Blackwell were attentive to our concerns and suggested that we correspond with regard to specific recommendations that could be made to the Corps of Engineers to resolve the failure of that agency to properly address the water rights of the Standing Rock Sioux Tribe in either the Master Manual Update and Revision or the Environmental Impact Statement on the proposed federal action.

The efforts of Ms. Klee and Ms. Blackwell are highly appreciated. The Standing Rock Sioux Tribe is pleased that you have brought thoughtful and active staff to this Administration. We look forward to a continuing effort on this subject. Please refer to the initial request for a meeting on this subject by letter of April 27, 2001.

As indicated by our Resolution No.106-01 (enclosed) and relevant correspondence (enclosed), the Standing Rock Sioux Tribe claims more than 1.3 million acre-feet annually for diversion from the Missouri River and its tributaries. Other Tribes in the Missouri River Basin may have similar claims. Of the 26 Tribes in the Missouri River Basin, only the Wind River Arapahoe and Shoshone Tribes have water rights established by decree with a completed appeals process. Other Tribes have concluded Congressionally recognized settlements, and still other Tribes may be

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engaged in a negotiation process. Most Tribes, including the Standing Rock Sioux Tribe, do not have an ongoing adjudication or negotiation.

The alternatives considered by the Corps of Engineers in the Missouri River Master Manual rely exclusively on the current level of depletions in the Missouri River to arrive at conclusions. At the suggestion of the Standing Rock Sioux Tribe and other Tribes, the Corps of Engineers conducted a study of increase in depletion (by Tribes or any other combination of users) that showed significant impact on the quantity of water available for future use and significant conflicts between competing uses, such as Indian Tribes, endangered species, downstream navigation in the Missouri and Mississippi Rivers and maintenance of water levels in upstream reservoirs for recreation, among other competing uses. This peripheral analysis by the Corps of Engineers clearly demonstrated that the level of claims and actual future use by Tribes could have a significant impact on the future operation of the Missouri River.

The Corps of Engineers failed, however, to address the impact of its alternatives on the water rights of the Standing Rock Sioux Tribe, among other Tribes, or the impact of the Tribe on the Corps' alternatives. The Corps of Engineers simply concluded that the future operations of the Missouri River would be adjusted to accommodate future perfected uses by the Tribes. This permitted the Corps of Engineers to proceed on the presumption that Indian water rights have no impact on future operation of the River. The Master Manual becomes a pronouncement to downstream navigation, upstream reservoir-based recreation, endangered species and all other interests that a final proposed operating plan can be relied upon subject to a risk that future decrees and settlements favoring the Standing Rock Sioux Tribe and other Tribes may affect the proposed operating plan.

A higher burden is thus placed on the Standing Rock Sioux Tribe at some future date to prove its water right, which would require the undoing of commitments made in the Master Manual and the undoing of subsequent investments relying on the Master Manual: the replacement of barges, the replacement of docks; investment in upstream marinas, sporting goods outlets, resorts; and the overstatement of quantities of water available for maintenance of flows for threatened and endangered species, etc. Please be aware that objection by Congressional delegates (numerically powerful) from downstream navigation states to any legislation proposed by the Standing Rock Sioux Tribe or other Tribes involving significant or insignificant depletions of the Missouri River and its tributaries is the current standard of practice. Similar objections can be expected in the future from upstream lake based recreation interests and environmental interests. Considerable pressure will be exerted on the Courts and Congress to diminish the claims and any final adjudication or settlement of the water rights of the Standing Rock Sioux Tribe.

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The Standing Rock Sioux Tribe objects to the presumption in the Master Manual and EIS that Indian water rights depend upon use. The Corps of Engineers has relied on the concept that Indian water rights are appropriative and depend upon use, but the principal that distinguishes Indian water rights from appropriative rights is the reserved nature of them dating from the time of the creation of the Reservation or earlier. Our water rights are currently vested irrespective of the fact that they have not been quantified in an adjudication or a settlement.

Our specific recommendation is to include in the Master Manual a reasonable level of claim by the Standing Rock Sioux Tribe and other Tribes and to assess the impact of those claims on the alternatives considered in the EIS, including the proposed alternative. Absent this analysis, the Master Manual and its EIS are deficient for not properly assessing impacts of known issues on the alternatives. Further, our specific recommendation is to assess the damage of the alternatives, including the proposed alternative, to the Standing Rock Sioux Tribe in future efforts to adjudicate or settle its claims given the level of commitment to future streamflows in the proposed alternative.

Moreover, the Master Manual should include an analysis of federal steps that can be taken to mitigate the impact of the proposed alternative on the ability of the Standing Rock Sioux Tribe to adjudicate or settle its claims in the future. An example of the kind of mitigation that could be undertaken, is Congressional action to authorize the Standing Rock Sioux Tribe to purchase part of the generating capacity on the Missouri River and to undertake the development of other sources of renewable or non-renewable energy, such as wind generation, gas-fired generation or other. This would permit to Tribe to benefit from an interim commitment of Missouri River water supplies to those purchased generators and other developments until such time as a final decree or final settlement of water rights is implemented. The mitigation as described would not adversely impact other interests. The Nation would also benefit. An example of the kind of mitigation that could be considered is enclosed with this correspondence. No action has been taken by the governing body of the Standing Rock Sioux Tribe on such an action, whether connected to our water rights or considered separately aside from water rights. Therefore, the example is provided for illustration only.

The Corps of Engineers has effectively ignored the water rights of the Standing Rock Sioux Tribe in its Master Manual and accompanying EIS. The support of the Secretary is respectfully requested to include a much broader analysis and presentation of the impact of Standing Rock Sioux Tribe water rights on the Master Manual alternatives and the impact of Master Manual alternatives on the water rights of the Standing Rock Sioux Tribe. Most important is the need for proposed mitigation of the impacts of the Master Manual alternatives on the water rights of the Standing Rock

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Sioux Tribe. With dialog and proper analysis, a sound plan for mitigation can be developed while the Standing Rock Sioux Tribe continues to pursue the protection of its water rights claims in the future.

Finally, the Standing Rock Sioux Tribe respectfully requests that a team from the Department are Interior is assigned to work with us on this most important issue. We are hopeful that Ms. Ann Klee and Ms. Sharon Blackwell can be key members of that team.

Sincerely,

STANDING ROCK SIOUX TRIBE

Charles W. Murphy
Chairman

CWM/mw

cc: John Ashcroft, Attorney General
Ms. Claudia L. Tornblom, Deputy Assistant Secretary of the Army
Ms. Ann Klee
Ms. Sharon Blackwell
The Honorable Tom Daschle
The Honorable Tim Johnson
The Honorable Johnson Thune
The Honorable Byron Dorgan
The Honorable Kent Conrad
The Honorable Earl Pomeroy

RESOLUTION NO. 106-01

FORMALLY ESTABLISHES THE STANDING ROCK SIOUX TRIBE'S POLICY ON ITS ABORIGINAL, TREATY AND WINTERS RIGHTS TO THE USE OF WATER IN THE MISSOURI RIVER TO MEET ALL PRESENT AND FUTURE USES; AMONG OTHER THINGS

WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934, with the exception of Article 16, and the recognized governing body of the Tribe is known as the Standing Rock Sioux Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribal Council, pursuant to the Constitution of the Standing Rock Sioux Tribe, Article IV, Section(s) 1 (a,b,c,h and j), is authorized to negotiate with Federal, State and local governments and others on behalf of the Tribe, is further authorized to promote and protect the health, education and general welfare of the members of the Tribe and to administer such services that may contribute to the social and economic advancement of the Tribe and its members; and is further empowered to authorize and direct subordinate boards, committees or Tribal officials to administer the affairs of the Tribe and to carry out the directives of the Tribal Council; and is empowered to manage, protect, and preserve the property of the Tribe and natural resources of the Standing Rock Sioux Reservation; and

Master Manual EIS Specifically Excludes Consideration of Indian Water Rights

WHEREAS, the United States Army Corps of Engineers makes the following statement describing how the Corps fails to recognize or consider Indian water rights in its Master Water Control Manual for the future operation of the Missouri River, thereby committing Missouri River water to operational priorities and creating an insurmountable burden for the future exercise of the rights to the use of water by the Standing Rock Sioux Tribe as reserved from time immemorial:

> *The Missouri River basin Indian tribes are currently in various stages of quantifying their potential future uses of Mainstem System water. It is recognized that these Indian tribes may be entitled to certain reserve or aboriginal Indian water rights in streams running through and along reservations. Currently, such reserved or aboriginal rights of tribal reservations have not been quantified in an appropriate legal forum or by compact with three exceptions.... The Study considered only existing consumptive uses and depletions; therefore, no potential tribal water rights were considered. Future modifications to system operation, in accordance with pertinent legal requirements, will be considered as tribal water rights are quantified in accordance with applicable law and actually put to use. Thus, while existing depletions are being considered, the Study process does not prejudice any reserved or aboriginal Indian water rights of the Missouri River basin Tribes.* (PDEIS 3-64); and

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WHEREAS, the failure of the United States, acting through the Corps, to recognize and properly consider the superior rights of the Standing Rock Sioux Tribe must be rejected by the Tribe for the reason that the Master Manual revision and update is making irretrievable commitments to (1) navigation in the lower basin, (2) maintenance of reservoir levels in the upper basin and (3) fish, wildlife and endangered species throughout the upper and lower basins. These commitments are violations of the constitutional, civil, human and property rights of the Tribe; and

Endangered Species Guidance Specifically Excludes Consideration of Indian Water Rights in Missouri River Basin

WHEREAS, the Working Group on the Endangered Species Act and Indian Water Rights, Department of Interior, published recommendations for consideration of Indian water rights in Section 7 Consultation, in national guidance for undertakings such as the Master Manual, as follows:

> *The environmental baseline used in ESA Section 7 consultations on agency actions affecting riparian ecosystems should include for those consultations the full quantum of: (a) adjudicated (decreed) Indian water rights; (b) Indian water rights settlement act; and (c) Indian water rights otherwise partially or fully quantified by an act of Congress... Biological opinions on proposed or existing water projects that may affect the future exercise of senior water rights, including unadjudicated Indian water rights, should include a statement that project proponents assume the risk that the future development of senior water rights may result in a physical or legal shortage of water. Such shortage may be due to the operation of the priority system or the ESA. This statement should also clarify that the FWS can request reinitiation of consultation on junior water projects when an agency requests consultation on federal actions that may affect senior Indian water rights.*

The Working Group recommendations further the failure to address unadjudicated Indian water rights. It is unthinkable that the United States would proceed with water resource activities, whether related to endangered species, water project implementation or Missouri River operation in the absence of properly considering Indian water rights that are not part of an existing decree – presuming, in effect, that the eventual quantification of Indian water rights will be so small as to have a minimal impact on the operation of facilities in a major river, such as the Missouri River, or so small as to be minimally impacted by assignment of significant flow to endangered species. The flows required to fulfill or satisfy Indian water rights are, in fact, not small nor minimal but are significant; and

Final Indian Water Right Agreements and Claims of the United States on Behalf of Tribes Are Denigrated by Master Manual and Other Regional Water Allocation Processes

WHEREAS, failures of federal policy to properly address Indian water rights in planning documents such as the Master Manual is underscored by example. Tribes in Montana

have water right compacts with the State that are complete and final but have not been incorporated into a decree. Incorporation is certain, however, and will be forthcoming. It is not a matter of "if", it is a matter of "when". The water rights agreed upon by compact are substantial, but neither the Corps of Engineers' Master Manual nor the Secretary of Interior's ESA guidance, as currently constituted, will consider these rights – they presume the rights do not exist -- until they become part of a decree. At such time as the decree in Montana is complete, the Master Manual conclusions will be obsolete and any assignment of Missouri River flows to upstream reservoirs, downstream navigation or endangered species, relied upon by the various special interest groups, will be in conflict with the decree; and

WHEREAS, in Arizona, as another example, these same flawed federal policies to ignore Indian water rights in the allocation of regional water supplies are manifest. The United States is in the process of reallocating part of approximately 1.4 million acre-feet of water diverted from the Colorado River and carried by aqueduct system in the Central Arizona Project for the Phoenix area. The reallocation is purportedly for the purpose, in part, of resolving Indian water right claims in Arizona, but careful review of the reallocation demonstrates that only two Indian tribes are involved. The Bureau of Reclamation, agent for the trustee in the reallocation process, has given short shrift to other Indian concerns that the EIS should address the impacts of the reallocation on all affected tribes and on all non-Indian claimants that will be impacted by ongoing adjudication of Indian water rights. In response Reclamation describes claims filed by the Department of Justice on behalf of the tribes as *speculative*. Thus, Arizona tribes are in the same dilemma as Missouri River basin tribes, but the process to determine the magnitude of Indian claims in Arizona is much further advanced. The United States is, on the one hand, pursuing a claim for adjudication of Indian water rights; and the United States, on the other hand, is reallocating water necessary to supply non-Indian interests impacted by Indian water rights-- but is refusing to recognize any potential for Indian water rights success in ongoing adjudications. This denigrates the claims of the United States on behalf of the tribes and draws into question the intent and commitment of the Department of Justice in the proper advancement of Indian claims, claims which at least some tribes consider deficient and poorly prosecuted by the Department of Justice; and

WHEREAS, the Standing Rock Sioux Tribe cannot tolerate these policies: cannot permit reliance by wide and diverse interest groups in the Missouri River – states, environmental, federal agencies and economic sectors– on conclusions associated with the preferred alternative in the Master Manual when the conclusions are based on the presumption of no Indian water rights and insignificant future Indian water use throughout the Basin; cannot expect future courts to undo investments, undertakings, mortgages and economies that build on the basis of the Master Manual conclusions; cannot expect future Congresses to act more favorably than future courts; and

Importance of Master Manual Process is Underscored by Congressional and

Other Activity

WHEREAS, the Master Manual of the Corps of Engineers is the name presently given to the operating procedures for the mainstream dams and reservoirs. The Corps of Engineers has responsibility for those operations as directed by the 1944 Flood Control Act, the controlling legislation for the Pick-Sloan Project. Since 1944, all dams (except Fort Peck Dam) were constructed and have been operated by the Corps of Engineers or the Bureau of Reclamation. The current Master Manual revision is the first public process update of Corps of Engineers operating procedures, and its importance to future exercise of the Tribe's water rights cannot be ignored by the Tribe; and

WHEREAS, the Master Manual is intended by the federal courts and Congress to resolve issues between the upper and lower basin states, irrespective of tribal issues. The federal courts have dismissed cases brought by the states over the last decade and a half, cases designed to settle issues of maintenance of water levels in the reservoirs in North and South Dakota and the conflicting release of water for downstream navigation; and

WHEREAS, most recently, the Energy and Water Resource Development appropriations for FY 2001 were vetoed by the President because upstream senators supported by the President opposed language by downstream senators in the appropriations bill, which contained controversial language as follows:

> *Sec. 103. None of the funds made available in this Act may be used to revise the Missouri River Master Water Control Manual when it is made known to the Federal entity or official to which the funds are made available that such revision provides for an increase in the springtime water release program during the spring heavy rainfall and snow melt period in States that have rivers draining into the Missouri River below the Gavins Point Dam.*

The provisions cited above require the Corps of Engineers or any other official to refrain from using any funds to revise the Master Manual if it is determined that the revision would cause any increase in water releases below Gavin's Point Dam in springtime. There is apparently concern by downstream members of Congress that the Master Manual will recommend an increase in releases to the detriment of downstream navigation, environmental values or flood control. Upstream members of Congress stopped the approval of appropriations over this controversy until the above-cited language was omitted from the bill; and

WHEREAS, given the importance of the Master Manual revision and update to the States, the Congress and Courts, the Standing Rock Sioux Tribe cannot tolerate the exclusion of proper consideration of their water rights, nor can the Tribe tolerate the inadequate representation of the Trustee on this matter; and

Brief Historical Review of Indian Water Rights

WHEREAS, the right of the Crown of Great Britain to the territory of North America was derived from the discovery of that continent by Sebastian Cabot, who in 1498 explored a greater part of the Atlantic Coast under a Commission from King Henry VII and took formal possession of the continent as he sailed along the coast. But those commissioned by the Crown to settle in North America were cognizant of the rights, titles and interests of the original possessors. In the proprietary of Maryland, granted to George Calvert, Lord Baltimore, in 1632, for example, it was recognized by English law evolving from invasions against the Celtic tribes and their successors by the Romans, Anglo-Saxons and Normans, among others, over a period of 1,500 years prior to the discovery of America that the rights of the ancient possessors were specific and could not be ignored by a just occupier. The following was the rationale:

> *The roving of the erratic tribes over wide extended deserts does not formed a possession which excludes the subsequent occupancy of immigrants from countries overstocked with inhabitants. The paucity of their numbers in their mode of life, render them unable to fulfill the great purposes of the grant [by the King to the Proprietary of Maryland]. Consistent, therefore, with the great Charter to mankind, they (Tribes) may be confined within certain limits. Their rights to the privileges of man nevertheless continue the same: and the Colonists who conciliated the affections of the aborigines, and gave a consideration for their territory, have acquired the praise due to humanity and justice. Nations, with respect to the several communities of the earth, possessing all the rights of man, since they are aggregates of man, are governed by similar rules of action. Upon those principles was founded the right of emigration of old: upon those principles the Phenicians and Greeks and Carthagenians settled Colonies in the wilds of the earth.... In a work treating expressly of original titles to Land it has been thought not amiss to explain... the manner in which an individual obtaining from his Sovereign an exclusive licence, with his own means, to lead out and plant a Colony in a region of which that Sovereign had no possession, proceeded to avail himself of the privilege or grant, and to reconcile or subject to his views the people occupying and claiming by natural right that Country so bestowed... in particular, an history, already referred to, of the Americans settlements, written in 1671, after speaking of the acquisition of St. Mary's continues 'and it hath been the general practice of his Lordship and those who were employed by him in the planting of the said province, rather to purchase the natives' interest... than to take from them by force that which they seem to call their right and inheritance, to the end all disputes might be removed touching the forcible encroachment upon others, against the Law of nature or nations... When the earth was the general property of mankind, mere occupancy conferred on the possessor such an interest as it would have been unjust, because contrary to the Law of Nature, to take from him without his consent: and this state has been happily compared to a theatre, common to all; but the individual, having appropriated a place, acquires a privilege of which he cannot be dispossessed without injustice'. ... the Grant [to Lord Baltimore] comprehended 'all Islands and Islets within the limits aforesaid, and all Islands and etc. within ten marine leagues of the Eastern Shore, with all Ports, Harbors, Bays, Rivers, and Straits, belonging to the region or Islands aforesaid, and all the soil, plains, woods, mountains, marshes, Lakes, Rivers, Days, and Straits, with the fishing of every kind, within the said limits'; all mines of whatsoever kind, and patronage and advowson of all Churches. Lord Baltimore ... was invested with all the Rights, Jurisdictions, Privileges, Prerogatives, Royalties, Liberties, Immunities, and Royal Rights and Temporal Franchises whatsoever, as well by sea as by land, within the Region, Islands, Islets, and limits aforesaid...*(Source: John Kilty. *Land Holder's Assistant and Land Office Guide.*

Islands, Islets, and limits aforesaid...(Source: John Kilty. *Land Holder's Assistant and Land Office Guide.*
Baltimore: G. Dobbin & Murphy, 1808. MSA SC 5165-1-1).; and

WHEREAS, 130 years later the Proclamation of 1763 by King George III recognized title to the land and resources reserved by the American Indians of no lesser character or extent than the Charter to Lord Baltimore:

> *And whereas it is just and reasonable, and essential to our interest, and the Security of our Colonies, that the several Nations or Tribes of Indians with whom We are connected, and who live under our Protection, should not be molested or disturbed in the Possession of such Parts of Our Dominions and Territories as, not having been ceded to or purchased by Us, are reserved to them, or any of them, as their Hunting Grounds -- We do therefore, with the Advice of our Privy Council, declare it to be our Royal Will and Pleasure, that no... Governor or Commander in Chief in any of our other Colonies or Plantations in America do presume for the present, and until our further Pleasure be known, to grant Warrants of Survey, or pass Patents for any Lands beyond the Heads or Sources of any of the Rivers which fall into the Atlantic Ocean from the West and North West, or upon any Lands whatever, which, not having been ceded to or purchased by Us as aforesaid, are reserved to the said Indians, or any of them. And We do further declare it to be Our Royal Will and Pleasure, for the present as aforesaid, to reserve under our Sovereignty, Protection, and Dominion, for the use of the said Indians, ... all the Lands and Territories lying to the Westward of the Sources of the Rivers which fall into the Sea from the West and North West as aforesaid. And We do hereby strictly forbid, on Pain of our Displeasure, all our loving Subjects from making any Purchases or Settlements whatever, or taking Possession of any of the Lands above reserved, without our especial leave and Licence for that Purpose first obtained. And We do further strictly enjoin and require all Persons whatever who have either wilfully or inadvertently seated themselves upon any Lands within the Countries above described. or upon any other Lands which, not having been ceded to or purchased by Us, are still reserved to the said Indians as aforesaid, forthwith to remove themselves from such Settlements. And whereas great Frauds and Abuses have been committed in purchasing Lands of the Indians, to the great Prejudice of our Interests. and to the great Dissatisfaction of the said Indians: In order, therefore, to prevent such Irregularities for the future, and to the end that the Indians may be convinced of our Justice and determined Resolution to remove all reasonable Cause of Discontent, We do, with the Advice of our Privy Council strictly enjoin and require, that no private Person do presume to make any purchase from the said Indians of any Lands reserved to the said Indians, within those parts of our Colonies where We have thought proper to allow Settlement: but that, if at any Time any of the Said Indians should be inclined to dispose of the said Lands, the same shall be Purchased only for Us, in our Name, at some public Meeting or Assembly of the said Indians, to be held for that Purpose by the Governor or Commander in Chief of our Colony respectively within which they shall lie: and in case they shall lie within the limits of any Proprietary Government, they shall be purchased only for the Use and in the name of such Proprietaries, conformable to such Directions and Instructions as We or they shall think proper to give for that Purpose....*
>
> *Given at our Court at St. James's the 7th Day of October 1763, in the Third Year of our Reign.*
>
> *GOD SAVE THE KING;* and

WHEREAS, after the American Revolution and consistent with the foregoing, the United States Supreme Court by 1832 relied upon the ancient concepts of its predecessor Great Britain and recognized the property rights of Indians in the classical case of *Worcester v. the State of Georgia:*

> *America, separated from Europe by a wide ocean, was inhabited by a distinct people, divided into separate nations, independent of each other and of the rest of the world, having institutions of their own and governing themselves by their own laws. It is difficult to comprehend the proposition, that the inhabitants of either quarter of the globe could have rightful original claims of dominion over the inhabitants of the other, or over the lands they occupied; or that the discovery of either by the other should give the discoverer rights in the country discovered, which annulled the pre-existing rights of its ancient possessors.* (6 P 515, p. 543)
>
> *... This principle, acknowledged by all Europeans, because it was the interest of all to acknowledge it, gave to the nation making the discovery, as its inevitable consequence, the sole right of acquiring the soil and making settlements on it. It was an exclusive principle which shut out the right of competition among those who had agreed to it; not one which could annul the previous rights of those who had not agreed to it. It regulated the right given by discovery among the European discovers; but could not affect the rights of those already in possession, either as aboriginal occupants, or as occupants by virtue of a discovery made before the memory of man.....*
>
> *... This soil was occupied by numerous and warlike nations, equally willing and able to defend their possessions. The extravagant and absurd idea, that the feeble settlements made on the sea-coast, or the companies under whom they were made, acquired legitimate power by them to govern the people, or occupy the lands from sea to sea, did not enter the mind of any man. They were well understood to convey the title which, according to the common law of European sovereigns respecting America, they might rightfully convey, and no more. This was the exclusive right of purchasing such lands as the natives were willing to sell. The Crown could not be understood to grant what the Crown did not effect to claim; nor was it so understood.*
> (6 P 515, p. 544-545) (Emphasis supplied); and

WHEREAS, the principles in the case of *Worcester v. Georgia* are ancient as shown above and are the foundation of the principles announced by the U. S. Supreme Court three quarters of a century later relating to the Yakima Indian Nation in the case of *United States v. Winans (198 U.S.* 371). Title of the Indians in their property rights was fully acknowledged, and the Treaty was interpreted as a grant of property to the United States in the area not reserved by the Tribe to itself.

> *The right to resort to the fishing places in controversy was a part of larger rights possessed by the Indians, upon the exercise of which there was not a shadow of impediment, and which were not less necessary to the existence of the Indians than the atmosphere they breathed. New conditions came into existence, to which those rights had to be accommodated. Only a limitation of them, however, was necessary and intended, not a taking away. In other words the Treaty was not a grant of rights to the Indians, but a grant of rights from them - a reservation of those not granted.*

(Emphasis supplied); and

WHEREAS, the Supreme Court case of *Henry Winters v. United States* (207 US 564) found that reservation of water for the purposes of civilization was implied in the establishment of the Reservations:

> *The Reservation was a part of a very much larger tract which the Indians had the right to occupy and use and which was adequate for the habits and wants of a nomadic and uncivilized people. It was the policy of the Government, it was the desire of the Indians, to change those habits and to become a pastoral and civilized people. If they should become such the original tract was too extensive, but a smaller tract would be adequate with a change of conditions. The lands were arid and, without irrigation, were practically valueless.*
>
> *... That the Government did reserve them we have decided, and for a use which would be necessarily continued through years. This was done May 1, 1888, [at Fort Belknap] and it would be extreme to believe that within a year later [when the state of Montana was created] Congress destroyed the Reservation and took from the Indians the consideration of their grant, leaving them a barren waste - took from them the means of continuing their old habits, yet did not leave them the power to change to new ones.*" (207 U S 574, p. 576 577); and

WHEREAS, the case of *United States v. Ahtanum Irrigation District* (236 Fed 2nd 321, 1956) applied the *Worcester-Winans-Winters* concepts on Ahtanum Creek, tributary to the Yakima River and northern boundary of the Yakima Indian Reservation:

> *The record here shows that an award of sufficient water to irrigate the lands served by the Ahtanum Indian irrigation project system as contemplated in the year 1915 would take substantially all of the waters of Ahtanum Creek. It does not appear that the waters decreed to the Indians in the Winters case operated to exhaust the entire flow of the Milk River, but, if so, that is merely the consequence of it being a larger stream. As the Winters case, both here and in the Supreme Court, shows, the Indians were awarded the paramount right regardless of the quantity remaining for the use of white settlers. Our Conrad Inv. Co. Case, supra, held that what the non-Indian appropriators may have is only the excess over and above the amounts reserved for the Indians. It is plain that if the amount awarded the United States for the benefit of the Indians in the Winters Case equaled the entire flow of the Milk River, the decree would have been no different.* (236 F. 2nd 321, p. 327) (Emphasis supplied); and

WHEREAS, these concepts were further advanced in *Arizona v California*, 373 U.S. 546, 596-601 (1963):

> *The Master found as a matter of fact and law that when the United States created these reservations or added to them, it reserved not only land but also the use of enough water from the Colorado (River) to irrigate the irrigable portions of the reserved lands. The aggregate quantity of water which the Master held was reserved for all the reservations is about 1,000,000 acre-feet to be used on around 135,000 irrigable acres of land....*

> *It is impossible to believe that when Congress created the Great Colorado River Indian reservation and when the Executive Department of this Nation created the other reservations they were unaware that most of the lands were of desert kind -- hot scorching sands -- and the water from the River would be essential to the life of the Indian people and to the animals they hunted and crops they raised. We follow it [Winters] now and agree that the United States did reserve the water rights for the Indians effective as of the time Indian Reservations were created. This means, as the Master held, that these water rights, having vested before the Act [Boulder Canyon Project Act] became effective on June 25, 1929, are present perfected rights and as such are entitled to priority under the Act. We also agree with the Master's conclusion as to the quantity intended to be reserved. He found that water was intended to satisfy the future as well as present needs of the Indian reservations.... We have concluded, as did the Master, that the only feasible and fair way by which reserved water for the reservations can be measured is irrigable acreage. The various acreage of irrigable land which the Master found to be on the different reservations we find to be reasonable; and*

General Nature of Attacks on Winter Doctrine

WHEREAS, notwithstanding the injunctions of Lord Baltimore, King George III and favorable decisions of the United States Supreme Court, in practice, Congress, the executive branch and the judiciary have (1) limited Indian reserved water rights, (2) suppressed development of Indian reserved water rights, and (3) permitted reliance by state, federal, environmental and private interests on Indian water, contrary to trust obligations. The federal policy has clearly been .. *how best to transfer Indian lands and resources to non-Indians*... rather than to preserve, protect, develop and utilize those resources for the benefits of the Indians.

> *With an opportunity to study the history of the Winters rule as it has stood now for nearly 50 years, we can readily perceive that the Secretary of the Interior, in acting as he did, improvidently bargained away extremely valuable rights belonging to the Indians.... viewing this contract as an improvident disposal of three quarters of that which justly belonged to the Indians, it cannot be said to be out of character with the sort of thing which Congress and the Department of the Interior has been doing throughout the sad history of the Government's dealings with the Indians and Indian tribes. That history largely supports the statement: From the very beginnings of this nation, the chief issue around which federal Indian policy has revolved has been, not how to assimilate the Indian nations whose lands we usurped, but how best to transfer Indian lands and resources to non-Indians.* (*United States v Ahtanum Irrigation District*, 236 F. 2nd 321, 337); and

WHEREAS, the McCarran Amendment interpretation by the United States Supreme Court, if not in error, is a further example of the contemporary attack on Indian water rights. The discussion of the McCarran Amendment here is intended to show why tribes are (1) opposed to state court adjudications and (2) negotiated settlements under the threat of state court adjudication. In 1952 the McCarran Amendment, 43 U.S.C. 666 (a), was enacted as follows:

Consent is given to join the United States as a defendant in any suit (1) for the adjudication of rights to the use of water of a River system or other source, or (2) for the administration of such rights, where it appears that the United States is the owner or in the process of acquiring water rights by appropriation under State law, by purchase, by exchange or otherwise, and the United States is a necessary party to such suit; and

WHEREAS, the McCarran Amendment has been interpreted by the U.S. Supreme Court to require the adjudication of Indian water rights in state courts. *Arizona v San Carlos Apache Tribe,* 463 U.S. 545,564,573 (1981) held:

We are convinced that, whatever limitation the Enabling Acts or federal policy may have originally placed on State Court jurisdiction over Indian water rights, those limitations were removed by the McCarran Amendment.

In dissent, however, Justice Stevens stated:

To justify virtual abandonment of Indian water right claims to the State courts, the majority relies heavily on Colorado River Water Conservancy District, which in turn discovered an affirmative policy of federal judicial application in the McCarran Amendment. I continue to believe that Colorado River read more into that amendment that Congress intended... Today, however, on the tenuous foundation of a perceived Congressional intent that has never been articulated in statutory language or legislative history, the Court carves out a further exception to the virtually unflagging obligation of Federal courts to exercise their jurisdiction. The Court does not -- and cannot -- claim that it is faithfully following general principles of law... That Amendment is a waiver, not a command. It permits the United States to be joined as a defendant in state water rights adjudications; it does not purport to diminish the United States right to litigate in a federal forum and it is totally silent on the subject of Indian tribes rights to litigate anywhere. Yet today the majority somehow concludes that it commands the Federal Courts to defer to State Court water right proceedings, even when Indian water rights are involved; and

WHEREAS, in Arizona, Montana and other states, general water right adjudications to quantify *Winters* Doctrine rights are ongoing. For example in the state of Montana:

(1) the state of Montana sued all tribes in a McCarran Amendment proceeding.

(2) the State of Montana established a Reserved Water Rights Compact Commission. The purpose of the Commission was to negotiate the *Winters* Doctrine rights of the Montana tribes.

(3) the Department of Interior has adopted a negotiation policy for the settlement of Indian water rights. The United States Department of Interior has a negotiating team which works with the Montana Reserve Water Rights Compact Commission and Indian tribes, some forced by the adjudication in

state court, to negotiate, while others are willing to negotiate.

(4) the Department of Interior makes all necessary funding available to any Tribe willing to undertake negotiations. A Tribe refusing to negotiate cannot obtain funding to protect and preserve its *Winters* Doctrine water rights.

(5) upon reaching agreement between the State of Montana and an Indian tribe, congressional staff are assigned to develop legislation in the form of an Indian water rights settlement that may or may not involve authorization of federal appropriations to develop parts of the amount of Indian water agreed upon between the Tribe and the State or for other purposes.

(6) in the absence of the desire of a Tribe to negotiate, the State of Montana will proceed to prosecute its McCarran Amendment case against the Tribe; and

WHEREAS, this process relies on ongoing litigation to accomplish negotiated settlements of *Winters* Doctrine Indian water rights. The process is held out to be a success by the state and federal governments. However, comparison with the taking of the Black Hills from the Great Sioux Nation, the taking of the Little Rocky Mountains from the Fort Belknap Indian Reservation and the taking of Glacier Park from the Blackfeet are valid comparisons. There are elements of force and extortion in the process; and

WHEREAS, in the Wind River adjudication, 753 P. 2nd 76, 94-100 (WY 1988), the State of Wyoming utilized the McCarran Amendment to drastically diminished the Arapaho and Shoshone *Winters* Doctrine water rights in the Big Horn River Basin. The Wyoming Supreme Court found as follows:

The quantity of water reserved is the amount of water sufficient to fulfill the purpose of the lands set aside for the Reservation.

***

The Court, while recognizing that the tribes were the beneficial owners of the reservations timber and mineral resources... and that it was known to all before the treaty was signed that the Wind River Indian Reservation contained valuable minerals, nonetheless concluded that the purpose of the reservation was agricultural. The fact that the Indians fully intended to continue to hunt and fish does not alter that conclusion.... The evidence is not sufficient to imply a fishery flow right absent a treaty provision.... The fact that the tribes have since used water for mineral and industrial purposes does not establish that water was impliedly reserved in 1868 for such uses. The District Court did not err in denying a reserved water right for mineral and industrial uses... the District Court did not err in holding that the Tribes and the United States did not introduce sufficient evidence of a tradition of wildlife and aesthetic preservation that would justify finding this to be a purpose for which the Reservation was created or for which water was impliedly reserved... not a single case applying the

reserved water right doctrine to groundwater is cited to us.... In Colville Confederated Tribes v. Walton, supra, 547 F 2d 42, there is slight mention of the groundwater aquifer and of pumping wells, Id at 52, but the opinion does not indicate that the wells are a source of reserved water or even discuss a reserve groundwater right.... The District Court did not err in deciding there was no reserved groundwater right; and

WHEREAS, the statement by the Wyoming Supreme Court that *Colville* does not discuss a reserved water right to groundwater is in error, for Colville did decree reserved groundwater rights; and

WHEREAS, the *Wind River* case must be carefully examined by all tribes, including those of the Missouri River Basin. The single purpose of the Wind River Indian Reservation recognized by the Wyoming Supreme Court was limited to agriculture: severely limited relative to the... *Rights, Jurisdictions, Privileges, Prerogatives, Royalties, Liberties, Immunities, and Royal Rights and Temporal Franchises whatsoever, ... within the Region,* ..comprehending... *'all the soil, plains, woods, mountains, marshes, Lakes, Rivers, Days, and Straits, with the fishing of every kind, within the said limits'; all mines of whatsoever kind*...received by from the King by Lord Baltimore in the Proprietary of Maryland, which were, nevertheless, subject to purchase from the Native possessors. The Arapaho and Shoshone must have believed that the purpose of the reservation was to provide a permanent home and abiding place for their present and future generations to engage and pursue a viable economy and society. Despite existing oil and gas resources, they were denied reserved water for mineral purposes. Despite the need for industry in a viable economy, they were denied reserved water for industry. Despite a tradition of hunting and fishing, they were denied reserved water for wildlife and aesthetic preservation. Despite the existence of valuable forests, they were denied reserved water for this purpose. Despite the existence of valuable fisheries, established from time immemorial, they were denied a reserved water right to sustain their fisheries; and

WHEREAS, the United States Supreme Court reviewed the *Wind River* decision on the following question:

> *In the absence of any demonstrated necessity for additional water to fulfill reservation purposes and in presence of substantial state water rights long in use on the reservation, may reserved water rights be implied for all practicably irrigable lands within reservation set aside for specific Tribe?* 57 LW 3267 (Oct. 11, 1988); and

WHEREAS, acting without a written opinion and deciding by tie vote, the United States Supreme Court affirmed the decision of the Supreme Court of the State of Wyoming and rejected the thought process presented in the question above that the Tribes needed no additional water than the amount they were using and that state created water rights with long use should not be subjected to future Indian water rights. But a change in vote by a single justice would have reversed the decision and severely

constricted the benefits of the *Winters* Doctrine to the Indian people, a subject to be discussed further. The decision is limited to the State of Wyoming on critical issues, namely that Indian reserved rights do not apply to groundwater; the absence of a reserved water right for forest and mineral purposes; the absence of a reserved water right for fish, wildlife and aesthetic preservation; and a reduction of the Tribes claims to irrigation from 490,000 to less than 50,000 acres; and

WHEREAS, the acreage for irrigation finally awarded to the Wind River Tribes for future purposes was 48,097 acres involving approximately 188,000 acre-feet of water annually:

> *In determining the Tribes claims to practicably irrigable acreage, the United States [trustee for the tribes] began with an arable land-base of approximately 490,000 and relied on its experts to arrive at over 88,000 practicably irrigable acres. The claim was further "trimmed" by the United States to 76,027 acres for final projects. The acreage was further reduced during trial to 53,760 acres by Federal experts with a total annual diversion requirement of about 210,000 acre-feet.* (Teno Roncalio, Special Master. In Re: The General Adjudication of All Rights to the Use of Water in the Big Horn River System and All Other Sources, State of Wyoming, Concerning Reserved Water Right Claims by and on Behalf of the Tribes of the Wind River Indian Reservation, Wyoming, Dec. 15, 1982, pp. 154 and 157); and

WHEREAS, the *purposes* of reservation issue addressed by the Wyoming courts evolved from the 1978 United States Supreme Court case, *United States v. New Mexico* (438 U.S. 696), involving the water rights of the Gila National Forest:

> *The Court has previously concluded that Congress, in giving the President the power to reserve portions of the federal domain for specific federal purposes, impliedly authorized him to reserve "appurtenant water then unappropriated to the extent needed to accomplish the purpose of the reservation."... The Court has repeatedly emphasized that Congress reserved "only that amount of water necessary to fulfill the purpose of the reservation, no more."... Where water is only valuable for a secondary use of the reservation, however, there arises the contrary inference that Congress intended, consistent with its other views, that the United States would acquire water in the same manner as any other public or private appropriator.... The legislative debates surrounding the Organic Administration Act of 1897 and its predecessor bills demonstrate that Congress intended national forests to be reserved for only two purposes -- "to conserve the water flows, and to furnish a continuous supply of timber for the people."... Not only is the Government's claim that Congress intended to reserve water for recreation and wildlife preservation inconsistent with Congress's failure to recognize these goals as purposes of the national forest, it would defeat the very purpose for which Congress did intend the national forest system.... While Congress intended the national forest to be put to a variety of uses, including stockwatering, not inconsistent with the two principal purposes of the forest, stock watering was not, itself, a direct purpose of reserving the land;* and

WHEREAS, there may be debate with respect to the purposes for which a national

forest was created and for which purposes water was reserved, but it is a "slender reed" upon which to found a debate that when Indian reservations were established by the Indians or Great Britian or the United States, the purpose of establishment might vary among the Indian reservations; and, depending upon that purpose, the Indians would be limited in the beneficial uses to which water could be applied. Indian neighbors could apply water to any beneficial purpose generally accepted throughout the Western United States, but Indians could not. It is inconceivable that an Indian Reservation was established for any other "purpose" than an "Indian" reservation or that each Reservation was established for some arcane reason other than the pursuits of industry, self-government and all other activities associated with a modern, contemporary and ever-changing society embracing all of the ... *Rights, Jurisdictions, Privileges, Prerogatives,... and Temporal Franchises whatsoever, ... within the Region,* ..comprehending... *'all the soil, plains, woods, mountains, marshes, Lakes, Rivers, Days, and Straits, with the fishing of every kind, within the said limits'; all mines of whatsoever kind*; and

WHEREAS, nevertheless, the Wyoming courts relied upon the "purposes" argument to exclude water reserved for the pursuit of many of the arts of civilization.... industry, mineral development, fish, wildlife, aesthetics... on the basis that the purpose of the Wind River Indian Reservation was limited to an agricultural purpose absent specific Treaty language to the contrary. As crude as this conclusion may be, however, Tribes of the Missouri River basin and throughout the Western United States are faced with the "purposes" limitation originally applied in 1978 to national forests; and

WHEREAS, if there may be a question that the issue ended in Wyoming, it is only necessary to examine the state court general adjudication process in Arizona. A June 2000 pretrial order by the Special Master in the *General Adjudication of All Rights to Use Water in the Gila River System and Source* summarizes the issues as follows:

> *... Does the "primary-secondary" purposes distinction, as announced by the U.S. Supreme Court in United States v. New Mexico, 438 U.S. 696 (1978), apply to the water rights claimed for the Gila River Indian Reservation?...*
>
> *.... The State Litigants takes the position that the distinction does apply.*
>
> *... If the "primary-secondary" purposes distinction does apply to the Gila River Indian Reservation, what were the primary and secondary purposes for each withdrawal or designation of land for the Gila River Indian Reservation? May the Reservation have more than one "primary" purpose?....*
>
> *.... The State Litigants takes a position that the federal government withdrew or designated land to protect existing agriculture, create a buffer between the community and non-Indians who were settling in the area, provide substitute agricultural lands when non-Indians encroached on existing Indian agricultural lands, and provide for other specific economic activities such as grazing;* and

WHEREAS, the restriction or limitation of Indian water rights in the Missouri River basin is not confined to a federal denial of them in federal actions, such as the Master Manual and endangered species consultation. The limitations are expected to grow and expand from these federal actions. Indian water right opponents will concentrate on the language of *United States v. New Mexico* that *"...only that amount of water necessary to fulfill the purpose of the reservation, no more...* has been reserved by the Tribes or the United States on behalf of the tribes. The effort will be to first limit the purposes for which an Indian reservation was established and second limit the amount of water necessary to fulfill that purpose. If, for example, opponents could successfully argue that the purpose of an Indian reservation in the Missouri River Basin was primarily a "permanent homeland" and that agriculture was secondary, they would further argue that the amount of water reserved was limited to domestic uses, and no water was reserved for irrigation; and

WHEREAS, *Cappaert v. United States* (426 U.S. 128, 1976) was the basis, in part, for the decision in *United States v. New Mexico* discussed above. Here again the purposes of a "federal" reservation (as distinguished from a reservation by Indians or a reservation by the United States on behalf of Indians) and the use of water for that purpose is the subject. But the Cappaert decision is helpful in showing the extreme interpretations to which the State Court in Wyoming went in its *Wind River* decision:

> *....The District Court then held that, in establishing Devil's Hole as a national monument, the President reserved appurtenant, unappropriated waters necessary to the purpose of the reservation; the purpose included preservation of the pool and pupfish in it.... The Court of Appeals for the Ninth Circuit affirmed... holding that the "implied reservation of water" doctrine applied to groundwater as well as surface water...*and

WHEREAS, the purpose of establishing the national monument was clearly limited -- to preserve the Devil's Hole pupfish, which rely on a pool of water that is a remnant of the prehistoric Death Valley Lake System an object of historic and scientific interest. This is not an Indian reservation which embraces all of the purposes related to civilization, society and economy. Yet, Wyoming seized on the concept of an Indian reservation with purpose limited in the same manner as a national forest or a national monument. Note, however, that the Wyoming case (1988) grasps at the purposes argument to diminish the Indian water right but ignores the damaging aspect of *Cappaert* (1976) that reserved water concepts apply to groundwater as well as surface water. Not only did Wyoming ignore *Colville Confederated Tribes*, it ignored *Cappaert*. Recently, the Arizona Supreme Court, after considering the Wyoming decision, could not countenance a similar decision in Arizona, specifically rejected the Wyoming decision and found as follows:

...the trial court correctly determined that the federal reserved water rights doctrine applies not only to surface water but to groundwater...and...holders of federal reserved rights enjoy greater protection from groundwater pumping than do holders of state law rights...; and

WHEREAS, similarly, Wyoming ignored *Cappaert*, a U.S. Supreme Court decision about federally reserved water rights in a National Monument in Nevada, where *Cappaert* specifically rejected the concept of "sensitivity" or balancing of equities when water is needed for the purpose of a federal or Indian Reservation. In *Cappaert* the Court cited the *Winters* decision as a basis for rejecting the notion of Nevada that competing interests must be balanced between federal (or Indian) reserved water rights and competing non-federal (or non-Indian) water rights. Wyoming returned to the U.S. Supreme Court seeking a more favorable decision respecting "sensitivity" than provided by *Cappaert*:

Nevada argues that the cases establishing the doctrine of federally reserved water rights articulate an equitable doctrine calling for a balancing of competing interests. However, an examination of those cases shows they do not analyze the doctrine in terms of a balancing test. For example, in Winters v. United States, supra, the Court did not mention the use made of the water by the upstream landowners in sustaining an injunction barring their diversions of the water. The "Statement of the Case" in **Winters** *notes that the upstream users were homesteaders who had invested heavily in dams to divert the water to irrigate their land, not an unimportant interest. The Court held that, when the Federal Government reserves land, by implication, it reserves water rights sufficient to accomplish the purposes of the reservation;* and

WHEREAS, the United States Supreme Court reviewed the decision of the Wyoming Supreme Court and upheld the decision by a tie vote as discussed above. However, the majority of the court had apparently been swayed by the Wyoming argument:... *In the absence of any demonstrated necessity for additional water to fulfill reservation purposes and in presence of substantial state water rights long in use on the reservation, may reserved water rights be implied for all practicably irrigable lands within reservation set aside for specific Tribe?...* and had prepared a draft opinion referred to by the Arizona Supreme Court as the "ghost" opinion. The draft opinion was apparently not issued because Justice Sandra Day O'Connor, author of the "ghost" opinion on behalf of the majority, disqualified herself because she learned that her ranch had been named as a defendant in the Gila River adjudication in Arizona. Despite more than 350 years of understanding of justice and law relating to Indian property, the O'Connor opinion would have destroyed the basic tenets of the *Winters* Doctrine:

...The PIA standard is not without defects. It is necessarily tied to the character of land, and not to the current needs of Indians living on reservations....And because it looks to the future, the PIA standard, as it has been applied here, can provide the Tribes with more water than they need at the time of the quantification, to the

detriment of non-Indian appropriators asserting water rights under state law....this Court, however, has never determined the specific attributes of reserve water rights – whether such rights are subject to forfeiture for nonuse or whether they may be sold or leased for use on or off the Reservation....Despite these flaws and uncertainties, we decline Wyoming's invitation to discard the PIA standard... The PIA standard provides some measure of predictability and, as explained hereafter, is based on objective factors which are familiar to courts. Moreover no other standard that has been suggested would prove as workable as the PIA standard for determining reserve water rights for agricultural reservations....we think Master Roncolio and the Wyoming Supreme Court properly identified three factors that must be considered in determining whether lands which have never been irrigated should be included as PIA: the arability of the lands, the engineering feasibility (based on current technology) of necessary future irrigation projects, and the economic feasibility of such projects (based on the profits from cultivation of future lands and the costs of the project... Master Roncolio found...that economic feasibility will turn on whether the land can be irrigated with a benefit-cost ratio of one or better....Wyoming argues that our post-Arizona I cases, specifically Cappaert and New Mexico, indicate that quantification of Indian reserved water rights must entail sensitivity to the impact on state and private appropriators of scarce water under state law.... Sensitivity to the impact on prior appropriators necessarily means that "there has to be some degree of pragmatism" in determining PIA....we think this pragmatism involves a "practical" assessment – a determination apart from the theoretical economic and engineering feasibility – of the reasonable likelihood that future irrigation projects, necessary to enable lands which have never been irrigated to obtain water, will actually be built....no court has held that the Government is under a general legal or fiduciary obligation to build or fund irrigation projects on Indian reservations so that irrigable acreage can be effectively used..... massive capital outlays are required to fund irrigation projects...and in today's era of budget deficits and excess agricultural production, government officials have to choose carefully what projects to fund in the West. ... Thus, the trier of fact must examine the evidence, if any, that additional cultivated acreage is needed to supply food or fiber to resident tribal members, or to meet the realistic needs of tribal members to expand their existing farming operations. The trier must also determine whether there will be a sufficient market for, or economically productive use of, any crops that would be grown on the additional acreage....we therefore vacate the judgment insofar as it relates to the award of reserved water rights for future lands and remand the case to the Wyoming Supreme Court for proceedings not inconsistent with this opinion; and

WHEREAS, the United States Supreme Court has virtually unlimited power to arrive at unjust decisions as evidenced by the *Dred Scott* decision, and the opinion of the minority would have had no force and effect in *Wyoming* as given by Justice Brennan:

...In the Court might well have taken as its motto for this case in the words of Matthew 25:29: "but from him that has not shall be taken away even that which he has." When the Indian tribes of this country were placed on reservations, there was, we have held, sufficient water reserved for them to fulfill the purposes of the reservations. In most cases this has meant water to irrigate their arable lands.... The Court now proposes, in effect, to penalize them for the lack of Government investment on their reservations by taking from them those water rights that have remained theirs, until now, on paper. The requirement that the tribes demonstrate a "reasonable likelihood" that irrigation

projects already determined to be economically feasible will actually be built – gratuitously superimposed, in the name out "sensitivity" to the interests of those who compete with the Indians for water, upon a workable method for calculating practicably irrigable acreage that parallels government methods for determining the feasibility of water projects for the benefit of non-Indians – has no basis in law or justice; and

WHEREAS, whether inspired by the "ghost" opinion of Justice O'Connor or not, the Arizona Supreme Court held arguments in February 2001 on the issue of: "what is the appropriate standard to be applied in determining the amount are water reserved for federal lands?", particularly Indian lands, which were not reserved by the United States for the Standing Rock Sioux Tribe but were, rather, reserved by the Tribe by its ancient ancestors from time immemorial. The outcome by the Arizona Supreme Court is immaterial but provides the question for review by the United States Supreme Court with full knowledge from the "ghost" opinion of the probable outcome. The Salt River Project and Arizona, principal losers in *Arizona v California I*, make the following arguments in *Gila* River against Indian reserved rights to the use of water:

...Under the United States Supreme Court's decision in United States v New Mexico..., all federal land with a dedicated federal purpose "has reserved to it that minimum amount of water which is necessary to effectuate the primary purpose of the land set aside." Judge Goodfarb also found, however, that this "purposes" test does not apply to Indian reservations. Instead, he held that, for Indian reservations, "the courts have drawn a clear and distinct line"....that mandates that reserved rights for all Indian reservations must be quantified based on the amount of "water necessary to irrigate all of the practicably irrigable acreage (PIA) on that Reservation" without considering the specific purposes for which the Reservation was created....this interlocutory proceeding with respect to Issue 3 arose because Judge Goodfarb incorrectly ruled (as a matter of law and without the benefit of any factual record, briefing, or argument) that PIA applies to all Indian reservations...

....as shown below, the Supreme Court in that case [Arizona I] and the courts in all reported decisions since that time, have applied the following analysis: first, review the historical evidence relating to the establishment of the Reservation and, from that evidence, determine the purposes for which the specific land in question was reserved (a question of fact). Second, determine, based upon the evidence, the minimum quantity of water necessary to carry out those purposes (a mixed question of law and fact). ...and in Colville Confederated Tribes V. Walton, for instance, the ninth circuit stated:. "to identify the purposes for which the Colville Reservation was created, we consider the document and circumstances surrounding its creation, and the history of the Indians for whom it was created. We also consider their need to maintain themselves under changed circumstances."

...the Zuni Reservation in northeastern Arizona, for example, was established

by Congress expressly "for religious purposes."...the original 1859 creation of the Gila Reservation and each of the seven subsequent additions had different rationales and were intended to address different purposes or combinations of purposes (e.g. protecting existing farmlands, adding lands for grazing, including lands irrigated by Indians outside the Reservation as part of the Reservation...

....In addition to varying in size, Indian reservations also vary in location and terrain. Reservations in Arizona, for instance, run the gamut from desert low lands to the high mountains and everything in between. Certain reservations along the Colorado River include fertile but arid river bottom land and were created for the purpose of converting diverse groups of "nomadic" Indians to a "civilized" and agrarian way of life...other reservations, such as the Navajo Reservation in extreme northeastern Arizona, consist largely of "very high plateaus, flat-top mesas, inaccessible buttes and deep canyons. "....there can be little doubt that the PIA standard works to the advantage of tribes inhabiting alluvium plains or other relatively flat lands adjacent to stream courses. In contrast, tribes inhabiting mountainous or other agriculturally marginal terrains are at a severe disadvantage when it comes to demonstrating that their lands are practicably irrigable....

...the special master [Arizona I] conducted a trial, accepted and reviewed substantial evidence regarding the purposes of the five Indian reservations at issue in that case, made factual findings as to purposes, and only then found that the minimum amount of water necessary to carry out those purposes was best determined by the amount of water necessary to irrigate all "practicably irrigable" acres on those reservations. ....the special master stated: "moreover the 'practicably irrigable' standard is not necessarily a standard to be used in all cases and when it is used it may not have the exact meaning it holds in this case. The amount reserved in each case is the amount required to make each Reservation livable."

...although the United States Supreme Court affirmed the Wyoming court's decision in that case without opinion, events surrounding that review shed considerable light on the Supreme Court's concerns about the continued viability of PIA as a standard, at least in the form it was applied in Arizona I. ....several Justices challenged the United States's defense of PIA...."at this point, Chief Justice Rehnquist challenged the precedential validity of Arizona I by noting that the opinion 'contains virtually no reasoning' and the Court merely had accepted the special master's conclusion as to the PIA standard...arguing that Congress must of contemplated the size of the tribe that would live on the Wind River Reservation, ...the Chief Justice stated that he found it difficult to believe that 'in 1868 Congress...should be deemed have said we're giving up water to irrigate every – every inch of arable land. No matter how large the tribe they thought they were settling. Did they expect to make some tribes very rich so that they can have an enormous export business... in agricultural products?" (State Litigant's Opening Brief on

Interlocutory Issue 3, Gila River Adjudication); and

Historical Analysis of Thought Processes Embraced by Master Manuall

WHEREAS, the means employed by the Corps of Engineers to deny consideration of Indian water rights in the preparation of the Master Manual and those same means employed by the Department of Interior to deny consideration of Indian water rights in baseline environmental studies of endangered species have been presented. Also, presented was the favorable body of law supporting the proper consideration of Indian water rights followed by the denigration of that law in state court adjudications, namely in Wyoming and, more recently, in Arizona. Briefly examined here are historical examples of the diminishment of property rights by a superior force and the strikingly similar arguments in support of that diminishment, and

WHEREAS, the concepts and techniques for diminishing the water rights of the Standing Rock Sioux Tribe in the Missouri River, its tributaries and aquifers are not novel. The colonization of Ireland by the English (*circa* 1650), for example, was justified in a manner that provides insight in the federal treatment of Indian water rights in the Missouri River Basin. Sir Thomas Macaulay, a prominent English politician in the first half of the 19th-century and one of the greatest writers of his or any other era, rationalized the taking of land from the native Irish and the overthrow of King James II in 1692, which overthrow was due, in part, to the King's efforts to restore land titles to the native Irish: (Sir Thomas Macaulay, 1848, *The History of England*, Penguin Classics, pp 149-151)

> *To allay national animosity such as that which the two races [Irish and English] inhabiting Ireland felt for each other could not be the work of a few years. Yet it was a work to which a wise and good Prince might have contributed much; and King James II would have undertaken that work with advantages such as none of his predecessors or successors possessed. At once an Englishman and a Roman Catholic, he belonged half to the ruling and half to the subject cast, and was therefore peculiarly qualified to be a mediator between them. Nor is it difficult to trace the course which he ought to have pursued. He ought to have determined that the existing settlement of landed property should be in violable: and he ought to have announced that determination in such a manner as effectually to quiet the anxiety of the new proprietors, and to extinguish any wild homes which the old proprietors might entertain. Whether, in the great transfer of estates, injustice had or had not been committed, was immaterial. The transfer, just or unjust, had taken place so long ago, that to reverse it would be to unfix the foundations of society. There must be a time limitation to all rights. After thirty-five years of actual possession, after twenty-five years of possession solemnly guaranteed by statute, after innumerable leases and releases, mortgages and devises, it was too late to search for flaws in titles. Nevertheless something might have been done to heal the lacerated feelings and to raise the fallen fortunes of the Irish gentry. The colonists were in a thriving condition. They had greatly improved their property by building, planting and fencing..... There was no doubt that the next Parliament which should meet at Dublin, though representing almost exclusively the English interest, would, in return for the King's promise to maintain that interest in all its legal rights, willingly grant to him a considerable sum for the purpose of indemnifying, at*

> *least in part, such native families as had been wrongfully despoiled.*
>
> *Having done this, he should have labored to reconcile the hostile races to each other by impartially protecting the rights and restraining the excesses of both. He should have punished with equal severity that native who indulges in the license of barbarism and the colonists who abused the strength of civilization..... no man who was qualified for office by integrity and ability should have been considered as disqualified by extraction or by creed for any public trust. It is probable that a Roman Catholic King, with an ample revenue absolutely at his disposal, would, without much difficulty, have secured the cooperation of the Roman Catholic prelates and priests in the great work of reconciliation. Much, however, might still have been left to the healing influence of time. The native race might still have had to learn from the colonists industry and forethought, arts of life, and the language of England. There could not be equality between men who lived in houses and men who lived in sties, between men who were fed on bread and men who were fed on potatoes, between men who spoke the noble tongue of great philosophers and poets and men who, with the perverted pride, boasted that they could not writhe their mouths into chattering such a jargon as that in which the Advancement of Learning and the Paradise Lost were written. Yet it is not unreasonable to believe that if the gentle policy which has been described had been steadily followed by the government, all distinctions would gradually have been effaced, and that there would now have been no more trace of the hostility which has been the curse of Ireland* ...and

WHEREAS, the Master Manual rationale... *Currently, such reserved or aboriginal rights of tribal reservations have not been quantified in an appropriate legal forum or by compact with three exceptions.... The Study considered only existing consumptive uses and depletions; therefore, no potential tribal water rights were considered....* or the ESA rationale.... *The environmental baseline used in ESA Section 7 consultations on agency actions affecting riparian ecosystems should include for those consultations the full quantum of: (a) adjudicated (decreed) Indian water rights; (b) Indian water rights settlement act; and (c) Indian water rights otherwise partially or fully quantified by an act of Congress... Biological opinions on proposed or existing water projects that may affect the future exercise of senior water rights, including unadjudicated Indian water rights, should include a statement that project proponents assume the risk that the future development of senior water rights may result in a physical or legal shortage of water....* does not represent a significant step forward from that advanced by Macaulay given the opportunity of 150 years for refinement in America. There cannot be significant differences between the statement of the Corps of Engineers and the Macaulay logic; and

WHEREAS, it is material, not immaterial, whether there has been injustice or a fitting of the law to the purpose in the transfer of Standing Rock waters of the Missouri River, its tributaries and its aquifers to non-Indians in the Master Manual update. It is rejected as correct ... that after the new proprietor's (downstream navigation, upstream recreation and endangered species) have enjoyed the Indian "estate" for a period of 25 to 35 years, the wild hopes of the Indian proprietors for participation must be extinguished. It is rejected as correct that the lacerated Indian feelings be healed, or for a considerable sum, despoiled Indian families can be made whole and the new possessors of Standing Rock Sioux water rights can be indemnified. It is rejected as proper that this be justified on the basis that the new possessor has greater industry, forethought, arts of life, language, diet, and housing. It is rejected

as untrue that after numerous leases, releases, and mortgages by non-Indians relying upon unused Indian *Winters* doctrine water rights, it is too late to search for flaws in titles. It is accepted as true that the Master Manual promotes reliance by non-Indians upon unused Indian *Winters* doctrine water rights; and

WHEREAS, the rationale of Supreme Court Justices, Master Manual and ESA is but a limited improvement from historical examples even earlier than Macaulay. Over 400 years ago, the sovereigns of England and Scotland, upon their union, sought possession of the borderlands between the two nations and to dispossess the native tribal inhabitants. The following provides the rationale of the Bishop of Glasgow against those ancient inhabitants as they sought (in vain) to stay in possession of their ancient lands:

> *I denounce, proclaim and declare all and sundry acts of the said murders, slaughters,... thefts and spoils openly upon daylight and under silence of night, all within temporal lands as Kirklands; together with their partakers, assistants, suppliers, known receivers and their persons, the goods reft and stolen by them, art or part thereof, and their counselors and defenders of their evil deeds generally CURSED, execrated, aggregate and re-aggregate with the GREAT CURSING.*
>
> *I curse their head and all their hairs on their head; I curse their face, their eye, their mouth, their nose, their tongue, their teeth, their crag, their shoulders, their breast, their heart, their stomach, their back, their wame (belly), their arms, their legs, their hands, their feet, and every part of their body, from the top of their head to the sole of their feet, before and behind, within and without.*
>
> *I curse them going and I curse them are riding; I curse them standing, and I curse them sitting; I curse them eating, I curse them drinking; I curse them walking, I curse them sleeping; I curse them arising, I curse them laying; I curse them at home, I curse them from home; I curse them within the house, I curse them without the house; I curse their wives, their barns, and their servants participating with them in their deeds. I wary their corn, their cattle, their wool, their sheep, their horses, their swine, their geese, their hens, and all their livestock. I wary their halls, their chambers, their kitchens, their storage bins, their barns, their cowsheds, their barnyards, their cabbage patches, their plows, their harrows, and the goods and houses that is necessary for their sustenance and welfare.*
>
> *The malediction of God that lighted upon Lucifer and all his fellows, that struck them from the high heaven to the deep hell, must light upon them. The fire in the sword that stopped Adam from the gates of Paradise, must stop them from the glory of heaven until they forbear and make amends;* and

WHEREAS, truly, the rationale of the Master Manual may be a slight improvement in the techniques that were used to justify dispossession 400 years ago and represents progress, Standing Rock and other tribes have repeatedly encountered equally effective, if less colorful, opposition to their efforts to preserve, protect, administer and utilize their water rights; and

WHEREAS, the distinguishing feature for the Standing Rock Sioux Tribe, however, is

the fact that the water right "estate" in the Missouri River has not been taken from them, even though it is under attack in the Master Manual. It is proposed in the Master Manual to commit water away from the Indians, but the process is not accomplished, and those who would rely on unused Indian water rights have not yet taken possession and executed mortgages, leases and releases on the basis of them. The Standing Rock Sioux Tribe remain in position to retain its "estate" in the Missouri River by rejecting the Master Manual and taking affirmative action to protect its ancient and intact possessions; and

WHEREAS, by taking steps to protect their ancient possessions the Standing Rock Sioux Tribe recognizes that it cannot expect support from the United States or its agencies acting as Trustee. Strong reaction can be expected from any current attempt to do so, including strong reaction by the Trustee. First, the Trustee has no funds for litigation of Indian water right issues. Second, the Trustee has considerable funds for settlement of Indian water right issues, but the Indian costs in lost property are great. Third, the Trustee has considerable technical criteria and requirements to impose on the Indian tribes as a basis for limiting the Indian water right "estate": irrigable land criteria, water requirement criteria, limitation on beneficial uses and, most limiting, economic feasibility criteria that few, if any, existing non-Indian water projects could survive.

NOW THEREFORE BE IT RESOLVED THAT, the Tribal Council of the Standing Rock Sioux Tribe rejects the Master Manual Review and Update by the U. S. Army Corps of Engineers for the express reason that it establishes a plan for future operation of the Missouri River addressing inferior downstream navigation, upstream recreation and endangered species water claims of the States and Federal interests and specifically denies proper consideration or any consideration of the superior, vested water rights of the Standing Rock Sioux Tribe while committing reservoir releases to purposes and interests in direct opposition to those of the Tribe.

BE IT FURTHER RESOLVED THAT, the Tribal Council of the Standing Rock Sioux Tribe, seeking to protect and preserve its valuable rights to the use of water in the Missouri River, its tributaries and aquifers upon which the Tribe relies and has relied since ancient times for its present and future generations, directs the Chairman to take all reasonable steps, through the appointment of himself, Tribal Council members and staff to working groups to petition members of Congress and officials at the highest levels in the Bush Administration, including the Department of Justice, among other proper steps, for the single purpose of ensuring a full rejection and re-constitution of the Master Manual as now proposed for action by the Corps to properly reflect the rights, titles and interests of the Standing Rock Sioux Tribe.

BE IT FURTHER RESOLVED THAT, the Tribal Council of the Standing Rock Sioux Tribe proclaims its continued dominion over all of the lands within the boundaries of the Standing Rock Sioux Indian Reservation as reserved from time immemorial including

but not limited to rights, jurisdictions, privileges, prerogatives, liberties, immunities, and temporal franchises whatsoever to all the soil, plains, woods, wetlands, lakes, rivers, aquifers, with the fish and wildlife of every kind, and all mines of whatsoever kind within the said limits; and the Tribal Council declares its water rights to irrigate not less than 303,650 arable acres with an annual diversion duty of 4 acre feet per acre, to supply municipalities, commercial and industrial purposes and rural homes with water for not less than 30,000 future persons having an annual water requirement of 10,000 acre feet annually, to supply 50,000 head of livestock of every kind on the ranges having an annual water requirement of 1,500 acre feet annually: such proclamation made on the basis of the status of knowledge at the start of the third millennia and subject to change to include water for other purposes, such as oil, gas, coal or other minerals, forests, recreation, and etc; and such proclamation for the purposes and amount of water required to be adjustable in the future to better reflect improved knowledge and changing conditions.

BE IT FURTHER RESOLVED THAT, the Tribal Council of the Standing Rock Sioux Tribe directs the Chairman to take all reasonable steps, through the appointment of himself, Tribal Council members and staff to working groups to petition members of Congress and officials at the highest levels in the Bush Administration to support and promote legislation that would, among other things, enable the Standing Rock Sioux Tribe to exercise its rights to the use of water in the Missouri River, in part, by purchasing the generators and transmission facilities of the United States at Oahe Dam at fair market value, subject to such offsets as may be agreed upon, with provisions to sell power generated at Oahe Dam at rates necessary to honor all existing contracts for the sale of pumping power and firm, wholesale power during their present term and sufficient to retire debts of the United States that may be agreed upon; provided, however, that the Tribe may increase power production at the dam by feasible upgrades and market the new power at market rates and after expiration of current contracts market power at rates reflective of the market; and provided further that legislation to purchase generators and transmission facilities will also include provisions to finance wind and/or natural gas power generation on the Standing Rock Indian Reservation to combine with hydropower production, thereby using Tribe's water and land resources effectively for the benefit of the Tribe without further erosion, diminishment and denigration of Tribe's water right claims.

BE IT FURTHER RESOLVED THAT, the Standing Rock Sioux Tribal Council rejects all reports and investigations of the Bureau of Reclamation on the Cannonball and Grand Rivers watersheds and any and all proposals by Bureau of Reclamation for an Indian Small Water Projects Act and that all ongoing efforts of the Bureau of Reclamation respecting these specific efforts will cease by this directive of the Tribal Council.

BE IT FURTHER RESOLVED THAT, the Tribal Council of the Standing Rock Sioux Tribe directs the Chairman to take all reasonable steps, through the appointment of himself, Tribal Council members and staff to working groups, to petition members of Congress,

United States Supreme Court, when engaged in a Whiggish course, to subject the least powerful to the will of the States in matters involving property rights as evidenced by the *Dred Scott*, the *O'Connor Ghost* and comparable decisions of expediency.

BE IT FURTHER RESOLVED THAT, the Chairman and Secretary of the Tribal Council are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

CERTIFICATION

We, the undersigned, Chairman and Secretary of the Tribal Council of the Standing Rock Sioux Tribe, hereby certify that the Tribal Council is composed of (17) members, of whom __12__ constituting a quorum, were present at a meeting thereof, duly and regularly, called, noticed, convened and held on the __5th__ day of April, 2001, and that the foregoing resolution was duly adopted by the affirmative vote of __11__ members, with __0__ opposing, and with __1__ not voting. THE CHAIRMAN'S VOTE IS NOT REQUIRED, EXCEPT IN CASE OF A TIE.

DATED THIS __5th__ DAY OF APRIL, 2001.

Charles W. Murphy, Chairman
Standing Rock Sioux Tribe

ATTEST:

Randall J. White for
Elaine McLaughlin, Secretary
Standing Rock Sioux Tribe

(OFFICIAL TRIBAL SEAL)

AT LARGE
Jesse Taken Alive
Reva Gates
Pat McLaughlin
Miles McAllister
Ron Brown Otter
Isaac Dog Eagle, Jr.

Charles W. Murphy
Chairman

Tom Iron
Vice Chairman

Elaine McLaughlin
Secretary

DISTRICTS
Robert Cordova
Cannonball District
Raphael See Walker
Fort Yates District
Joe Strong Heart
Wakpala District
Palmer Defender
Kenel District
Dean Bear Ribs
Bear Soldier District
Milton Brown Otter
Rock Creek District
Farren Long Chase
Little Eagle District
Randal White Sr.
Porcupine District

May 1, 2001

The Honorable Joseph W. Westphal, Acting Secretary
of the Army
U.S. Department of the Army
101 Army - Pentagon
Washington, D.C. 20310-0101

Dear Secretary Westphal:

The Standing Rock Sioux Tribe respectfully submits the attached resolution rejecting, among other things, the Master Manual Update and environmental impact statement documents and processes in support of the Master Manual Update.

The commitment that the Master Manual Update makes to downstream navigation interests, upstream recreation interests and endangered and threatened species is a considerable concern to the Tribe and its membership. Of equal concern is the lack of commitment to the protection or preservation of the water rights of the Standing Rock Sioux Tribe. These factors have caused the governing body to fully reject the effort and to call upon congressional members and others in President Bush's Administration to fully review the consequences of the Master Manual Update on our water rights and to join us in seeking a better course and outcome.

The Corps of Engineers contends in Master Manual documents that future operation of the mainstem Missouri River dams and reservoirs will be modified to reflect future decrees at completion of the appeal process or federal legislation establishing the measure of Indian water rights. Overlooked by the Corps of Engineers is the fact that commitments in the Master Manual diminish the ability of a future Court or Congress to equitably address the water rights of the Standing Rock Sioux Tribe in the future because mortgages, releases, debt, titles and, more generally, economic development outside the Reservation will be based on the commitments now proposed in the Master Manual. It is these pressures on the state, federal and Supreme Courts and the Political Process that result in Creative Laws to Diminish Our Vested Rights to the Use of Water and Circumvent the Equitable Compensation Provisions of the Constitution.

P.O. BOX D • FORT YATES, NORTH DAKOTA 58538
PHONE: 701-854-7201 or 701-854-7202 • FAX 701-854-7299

The drafts of the environmental impact statement prepared by the Corps of Engineers have failed completely to address the economic impact of the Master Manual Update on the Standing Rock Sioux Tribe. No consideration has been given to economic conditions on the Reservation and the impact that Master Manual commitments will have on the future Indian population given that the Tribe possesses an equitable title to rights to the use of water in the Missouri River.

Without diminishing the force or effect of our conclusions respecting the Master Manual, please accept our observation that the Corps of Engineers' staff working on the Master Manual Update have, for the most part, conducted themselves in an honorable and professional manner. It is the policy of the Corps of Engineers on this matter that is at issue.

Finally, please ensure that the documents prepared by the Corps of Engineers on the Master Manual reflect the opposition of the Standing Rock Sioux Tribe to the complete set of documents including the environmental impact statement.

Sincerely,

STANDING ROCK SIOUX TRIBE

Elaine McLaughlin

Charles W. Murphy
Chairman

CWM/eie

cc: The Honorable John Ashcroft, Attorney General
The Honorable Gale Norton, Secretary
The Honorable Christie Whitman, EPA Administrator
The Honorable Tom Daschle
The Honorable Tim Johnson
The Honorable John Thune
The Honorable Byron Dorgan
The Honorable Kent Conrad
The Honorable Earl Pomeroy

TREATY WITH THE SIOUX—BRULÉ, OGLALA, MINICONJOU, YANKTONAI, HUNKPAPA, BLACKFEET, CUTHEAD, TWO KETTLE, SANS ARCS, AND SANTEE—AND ARAPAHO, 1868.

Apr. 29, 1868.
15 Stats., 635.
Ratified, Feb. 16, 1869.
Proclaimed, Feb. 24, 1869.

Articles of a treaty made and concluded by and between Lieutenant-General William T. Sherman, General William S. Harney, General Alfred H. Terry, General C. C. Augur, J. B. Henderson, Nathaniel G. Taylor, John B. Sanborn, and Samuel F. Tappan, duly appointed commissioners on the part of the United States, and the different bands of the Sioux Nation of Indians, by their chiefs and head-men, whose names are hereto subscribed, they being duly authorized to act in the premises.

War to cease and peace to be kept.

ARTICLE 1. From this day forward all war between the parties to this agreement shall forever cease. The Government of the United States desires peace, and its honor is hereby pledged to keep it. The Indians desire peace, and they now pledge their honor to maintain it.

Offenders against the Indians to be arrested, etc.

If bad men among the whites, or among other people subject to the authority of the United States, shall commit any wrong upon the person or property of the Indians, the United States will, upon proof made to the agent and forwarded to the Commissioner of Indian Affairs at Washington City, proceed at once to cause the offender to be arrested and punished according to the laws of the United States, and also re-imburse the injured person for the loss sustained.

Wrongdoers against the whites to be punished.

If bad men among the Indians shall commit a wrong or depredation upon the person or property of any one, white, black, or Indian, subject to the authority of the United States, and at peace therewith, the Indians herein named solemnly agree that they will, upon proof made to their agent and notice by him, deliver up the wrong-doer to the United States, to be tried and punished according to its laws; and in case they wilfully refuse so to do, the person injured shall be re-imbursed for his loss from the annuities or other moneys due or to become due to them under this or other treaties made with the United States. And the President, on advising with the Commissioner of Indian Affairs, shall prescribe such rules and regulations for ascertaining damages under the provisions of this article as in his judgment may be proper. But no one sustaining loss while violating the provisions of this treaty or the laws of the United States shall be re-imbursed therefor.

Damages.

Reservation boundaries.

ARTICLE 2. The United States agrees that the following district of country, to wit, viz: commencing on the east bank of the Missouri River where the forty-sixth parallel of north latitude crosses the same, thence along low-water mark down said east bank to a point opposite where the northern line of the State of Nebraska strikes the river, thence west across said river, and along the northern line of Nebraska to the one hundred and fourth degree of longitude west from Greenwich, thence north on said meridian to a point where the forty-sixth parallel of north latitude intercepts the same, thence due east along said parallel to the place of beginning; and in addition thereto, all existing reservations on the east bank of said river shall be, and the same is, set apart for the absolute and undisturbed use and occupation of the Indians herein named, and for such other friendly tribes or individual Indians as from time to time they may be willing, with the consent of the United States, to admit amongst them; and the United States now solemnly agrees that no persons except those herein designated and authorized so to do, and except such officers, agents, and employés of the Government as may be authorized to enter upon Indian reservations in discharge of duties enjoined by law, shall ever be permitted to pass over, settle upon, or reside in the territory described in this article, or in such territory as may be added to this reservation for the use of said Indians, and henceforth they will and do hereby relinquish all claims or right in and to any portion of the United States or Territories, except such as is embraced within the limits aforesaid, and except as hereinafter provided.

Certain persons not to enter or reside thereon.

Additional arable land to be added, if, etc.

ARTICLE 3. If it should appear from actual survey or other satisfactory examination of said tract of land that it contains less than one hundred and sixty acres of tillable land for each person who, at the time, may be authorized to reside on it under the provisions of this treaty, and a very considerable number of such persons shall be disposed to commence cultivating the soil as farmers, the United States agrees to set apart, for the use of said Indians, as herein provided,

such additional quantity of arable land, adjoining to said reservation, or as near to the same as it can be obtained, as may be required to provide the necessary amount.

Buildings on reservation.

ARTICLE 4. The United States agrees, at its own proper expense, to construct at some place on the Missouri River, near the center of said reservation, where timber and water may be convenient, the following buildings, to wit: a warehouse, a store-room for the use of the agent in storing goods belonging to the Indians, to cost not less than twenty-five hundred dollars; an agency-building for the residence of the agent, to cost not exceeding three thousand dollars; a residence for the physician, to cost not more than three thousand dollars; and five other buildings, for a carpenter, farmer, blacksmith, miller, and engineer, each to cost not exceeding two thousand dollars; also a school-house or mission-building, so soon as a sufficient number of children can be induced by the agent to attend school, which shall not cost exceeding five thousand dollars.

The United States agrees further to cause to be erected on said reservation, near the other buildings herein authorized, a good steam circular-saw mill, with a grist-mill and shingle-machine attached to the same, to cost not exceeding eight thousand dollars.

Agent's residence, office, and duties.

ARTICLE 5. The United States agrees that the agent for said Indians shall in the future make his home at the agency-building; that he shall reside among them, and keep an office open at all times for the purpose of prompt and diligent inquiry into such matters of complaint by and against the Indians as may be presented for investigation under the provisions of their treaty stipulations, as also for the faithful discharge of other duties enjoined on him by law. In all cases of depredation on person or property he shall cause the evidence to be taken in writing and forwarded, together with his findings, to the Commissioner of Indian Affairs, whose decision, subject to the revision of the Secretary of the Interior, shall be binding on the parties to this treaty.

Heads of families may select lands for farming.

ARTICLE 6. If any individual belonging to said tribes of Indians, or legally incorporated with them, being the head of a family, shall desire to commence farming, he shall have the privilege to select, in the presence and with the assistance of the agent then in charge, a tract of land within said reservation, not exceeding three hundred and twenty acres in extent, which tract, when so selected, certified, and recorded in the "land-book," as herein directed, shall cease to be held in common, but the same may be occupied and held in the exclusive possession of the person selecting it, and of his family, so long as he or they may continue to cultivate it.

Others may select land for cultivation.

Any person over eighteen years of age, not being the head of a family, may in like manner select and cause to be certified to him or her, for purposes of cultivation, a quantity of land not exceeding eighty acres in extent, and thereupon be entitled to the exclusive possession of the same as above directed.

Certificates.

For each tract of land so selected a certificate, containing a description thereof and the name of the person selecting it, with a certificate endorsed thereon that the same has been recorded, shall be delivered to the party entitled to it, by the agent, after the same shall have been recorded by him in a book to be kept in his office, subject to inspection, which said book shall be known as the "Sioux Land-Book."

Surveys.

The President may, at any time, order a survey of the reservation, and, when so surveyed, Congress shall provide for protecting the rights of said settlers in their improvements, and may fix the character of the title held by each. The United States may pass such laws on the subject of alienation and descent of property between the Indians and their descendants as may be thought proper.

Alienation and descent of property.

And it is further stipulated that any male Indians, over eighteen years of age, of any band or tribe that is or shall hereafter become a party to this treaty, who now is or who shall hereafter become a resident or occupant of any reservation or Territory not included in the tract of country designated and described in this treaty for the permanent home of the Indians, which is not mineral land, nor reserved by the United States for special purposes other than Indian occupation, and who shall have made improvements thereon of the value of two hundred dollars or more, and continuously occupied the same as a homestead for the term of three years, shall be entitled to receive from the United States a patent for one hundred and sixty acres of land including his said improvements, the same to be in the form of the legal subdivisions of the sur-

veys of the public lands. Upon application in writing, sustained by the proof of two disinterested witnesses, made to the register of the local land-office when the land sought to be entered is within a land district, and when the tract sought to be entered is not in any land district, then upon said application and proof being made to the Commissioner of the General Land-Office, and the right of such Indian or Indians to enter such tract or tracts of land shall accrue and be perfect from the date of his first improvements thereon, and shall continue as long as he continues his residence and improvements, and no longer. And any Indian or Indians receiving a patent for land under the foregoing provisions, shall thereby and from thenceforth become and be a citizen of the United States, and be entitled to all the privileges and immunities of such citizens, and shall, at the same time, retain all his rights to benefits accruing to Indians under this treaty.

Certain Indians may receive patents for 160 acres of land.

Such Indians receiving patents to become citizens of the United States.

ARTICLE 7. In order to insure the civilization of the Indians entering into this treaty, the necessity of education is admitted, especially of such of them as are or may be settled on said agricultural reservations, and they therefore pledge themselves to compel their children, male and female, between the ages of six and sixteen years, to attend school; and it is hereby made the duty of the agent for said Indians to see that this stipulation is strictly complied with; and the United States agrees that for every thirty children between said ages who can be induced or compelled to attend school, a house shall be provided and a teacher competent to teach the elementary branches of an English education shall be furnished, who will reside among said Indians, and faithfully discharge his or her duties as a teacher. The provisions of this article to continue for not less than twenty years.

Education.

Children to attend school.

Schoolhouses and teachers.

ARTICLE 8. When the head of a family or lodge shall have selected lands and received his certificate as above directed, and the agent shall be satisfied that he intends in good faith to commence cultivating the soil for a living, he shall be entitled to receive seeds and agricultural implements for the first year, not exceeding in value one hundred dollars, and for each succeeding year he shall continue to farm, for a period of three years more, he shall be entitled to receive seeds and implements as aforesaid, not exceeding in value twenty-five dollars.

Seeds and agricultural implements.

And it is further stipulated that such persons as commence farming shall receive instruction from the farmer herein provided for, and whenever more than one hundred persons shall enter upon the cultivation of the soil, a second blacksmith shall be provided, with such iron, steel, and other material as may be needed.

Instructions in farming.

Second blacksmith.

ARTICLE 9. At any time after ten years from the making of this treaty, the United States shall have the privilege of withdrawing the physician, farmer, blacksmith, carpenter, engineer, and miller herein provided for, but in case of such withdrawal, an additional sum thereafter of ten thousand dollars per annum shall be devoted to the education of said Indians, and the Commissioner of Indian Affairs shall, upon careful inquiry into their condition, make such rules and regulations for the expenditure of said sum as will best promote the educational and moral improvement of said tribes.

Physician, farmer, etc., may be withdrawn.

Additional appropriation in such cases.

ARTICLE 10. In lieu of all sums of money or other annuities provided to be paid to the Indians herein named, under any treaty or treaties heretofore made, the United States agrees to deliver at the agency-house on the reservation herein named, on or before the first day of August of each year, for thirty years, the following articles, to wit:

Delivery of goods in lieu of money or other annuities.

For each male person over fourteen years of age, a suit of good substantial woolen clothing, consisting of coat, pantaloons, flannel shirt, hat, and a pair of home-made socks.

Clothing.

For each female over twelve years of age, a flannel skirt, or the goods necessary to make it, a pair of woolen hose, twelve yards of calico, and twelve yards of cotton domestics.

For the boys and girls under the ages named, such flannel and cotton goods as may be needed to make each a suit as aforesaid, together with a pair of woolen hose for each.

And in order that the Commissioner of Indian Affairs may be able to estimate properly for the articles herein named, it shall be the duty of the agent each year to forward to him a full and exact census of the Indians, on which the estimate from year to year can be based.

Census.

And in addition to the clothing herein named, the sum of ten dollars for each person entitled to the beneficial effects of this treaty shall be

Other necessary articles.

annually appropriated for a period of thirty years, while such persons roam and hunt, and twenty dollars for each person who engages in farming, to be used by the Secretary of the Interior in the purchase of such articles as from time to time the condition and necessities of the Indians may indicate to be proper. And if within the thirty years, at any time, it shall appear that the amount of money needed for clothing under this article can be appropriated to better uses for the Indians named herein, Congress may, by law, change the appropriation to other purposes; but in no event shall the amount of this appropriation be withdrawn or discontinued for the period named. And the President shall annually detail an officer of the Army to be present and attest the delivery of all the goods herein named to the Indians, and he shall inspect and report on the quantity and quality of the goods and the manner of their delivery. And it is hereby expressly stipulated that each Indian over the age of four years, who shall have removed to and settled permanently upon said reservation and complied with the stipulations of this treaty, shall be entitled to receive from the United States, for the period of four years after he shall have settled upon said reservation, one pound of meat and one pound of flour per day, provided the Indians cannot furnish their own subsistence at an earlier date. And it is further stipulated that the United States will furnish and deliver to each lodge of Indians or family of persons legally incorporated with them, who shall remove to the reservation herein described and commence farming, one good American cow, and one good well-broken pair of American oxen within sixty days after such lodge or family shall have so settled upon said reservation.

Appropriation to continue for thirty years.

Army officer to attend the delivery.

Meat and flour.

Cows and oxen.

ARTICLE 11. In consideration of the advantages and benefits conferred by this treaty, and the many pledges of friendship by the United States, the tribes who are parties to this agreement hereby stipulate that they will relinquish all right to occupy permanently the territory outside their reservation as herein defined, but yet reserve the right to hunt on any lands north of North Platte, and on the Republican Fork of the Smoky Hill River, so long as the buffalo may range thereon in such numbers as to justify the chase. And they, the said Indians, further expressly agree:

Right to occupy territory outside of the reservation surrendered.

Right to hunt reserved.

1st. That they will withdraw all opposition to the construction of the railroads now being built on the plains.

Agreements as to railroads.

2d. That they will permit the peaceful construction of any railroad not passing over their reservation as herein defined.

3d. That they will not attack any persons at home, or travelling, nor molest or disturb any wagon-trains, coaches, mules, or cattle belonging to the people of the United States, or to persons friendly therewith.

Emigrants, etc.

4th. They will never capture, or carry off from the settlements, white women or children.

Women and children.

5th. They will never kill or scalp white men, nor attempt to do them harm.

White men.

6th. They withdraw all pretence of opposition to the construction of the railroad now being built along the Platte River and westward to the Pacific Ocean, and they will not in future object to the construction of railroads, wagon-roads, mail-stations, or other works of utility or necessity, which may be ordered or permitted by the laws of the United States. But should such roads or other works be constructed on the lands of their reservation, the Government will pay the tribe whatever amount of damage may be assessed by three disinterested commissioners to be appointed by the President for that purpose, one of said commissioners to be a chief or head-man of the tribe.

Pacific Railroad, wagon roads, etc.

Damages for crossing their reservation.

7th. They agree to withdraw all opposition to the military posts or roads now established south of the North Platte River, or that may be established, not in violation of treaties heretofore made or hereafter to be made with any of the Indian tribes.

Military posts and roads.

ARTICLE 12. No treaty for the cession of any portion or part of the reservation herein described which may be held in common shall be of any validity or force as against the said Indians, unless executed and signed by at least three-fourths of all the adult male Indians, occupying or interested in the same; and no cession by the tribe shall be understood or construed in such manner as to deprive, without his consent, any individual member of the tribe of his rights to any tract of land selected by him, as provided in article 6 of this treaty.

No treaty for cession of reservation to be valid unless, etc.

ARTICLE 13. The United States hereby agrees to furnish annually to the Indians the physician, teachers, carpenter, miller, engineer, farmer, and blacksmiths as herein contemplated, and that such appropriations shall be made from time to time, on the estimates of the Secretary of the Interior, as will be sufficient to employ such persons. *United States to furnish physician, teachers, etc.*

ARTICLE 14. It is agreed that the sum of five hundred dollars annually, for three years from date, shall be expended in presents to the ten persons of said tribe who in the judgment of the agent may grow the most valuable crops for the respective year. *Presents for crops.*

ARTICLE 15. The Indians herein named agree that when the agency-house or other buildings shall be constructed on the reservation named, they will regard said reservation their permanent home, and they will make no permanent settlement elsewhere; but they shall have the right, subject to the conditions and modifications of this treaty, to hunt, as stipulated in Article 11 hereof. *Reservation to be permanent home of tribes.*

ARTICLE 16. The United States hereby agrees and stipulates that the country north of the North Platte River and east of the summits of the Big Horn Mountains shall be held and considered to be unceded Indian territory, and also stipulates and agrees that no white person or persons shall be permitted to settle upon or occupy any portion of the same; or without the consent of the Indians first had and obtained, to pass through the same; and it is further agreed by the United States that within ninety days after the conclusion of peace with all the bands of the Sioux Nation, the military posts now established in the territory in this article named shall be abandoned, and that the road leading to them and by them to the settlements in the Territory of Montana shall be closed. *Unceded Indian territory. Not to be occupied by whites, etc.*

ARTICLE 17. It is hereby expressly understood and agreed by and between the respective parties to this treaty that the execution of this treaty and its ratification by the United States Senate shall have the effect, and shall be construed as abrogating and annulling all treaties and agreements heretofore entered into between the respective parties hereto, so far as such treaties and agreements obligate the United States to furnish and provide money, clothing, or other articles of property to such Indians and bands of Indians as become parties to this treaty, but no further. *Effect of this treaty upon former treaties.*

In testimony of all which, we, the said commissioners, and we, the chiefs and headmen of the Brulé band of the Sioux nation, have hereunto set our hands and seals at Fort Laramie, Dakota Territory, this twenty-ninth day of April, in the year one thousand eight hundred and sixty-eight.

N. G. Taylor, [SEAL.]
W. T. Sherman, [SEAL.]
Lieutenant-General.
Wm. S. Harney, [SEAL.]
Brevet Major-General U. S. Army.
John B. Sanborn, [SEAL.]
S. F. Tappan, [SEAL.]
C. C. Augur, [SEAL.]
Brevet Major-General.
Alfred H. Terry, [SEAL.]
Brevet Major-General U. S. Army.

Attest:
A. S. H. White, Secretary.

Executed on the part of the Brulé band of Sioux by the chiefs and headmen whose names are hereto annexed, they being thereunto duly authorized, at Fort Laramie, D. T., the twenty-ninth day of April, in the year A. D. 1868.

Ma-za-pon-kaska, his x mark, Iron Shell. [SEAL.]
Wah-pat-shah, his x mark, Red Leaf. [SEAL.]
Hah-sah-pah, his x mark, Black Horn. [SEAL.]
Zin-tah-gah-lat-ekah, his x mark, Spotted Tail. [SEAL.]
Zin-tah-skah, his x mark, White Tail. [SEAL.]
Me-wah-lah-ne-lu-skah, his x mark, Tall Mandan. [SEAL.]
Sho-cha-chat-kah, his x mark, Bad Left Hand. [SEAL.]
Bella-tonka-tonka, his x mark, Big Partisan. [SEAL.]
Mah-to-ho-honka, his x mark, Swift Bear. [SEAL.]
To-wis-ne, his x mark, Cold Place. [SEAL.]
Ish-tah-ekah, his x mark, White Eyes. [SEAL.]
Ma-ta-loo-zah, his x mark, Fast Bear. [SEAL.]
As-hah-kah-mah-zhe, his x mark, Standing Elk. [SEAL.]
Can-te-te-ki-ya, his x mark, The Brave Heart. [SEAL.]

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON DC 20310-0108

20 JUN 2001

REPLY TO
ATTENTION OF

Mr. Charles W. Murphy
Chairman, Standing Rock Sioux Tribe
Post Office Box D
Fort Yates, North Dakota 58538-0522

Dear Chairman Murphy:

Thank you for your letter of May 1, 2001, to the Honorable Joseph W. Westphal, former Acting Secretary of the Army, regarding the Missouri River Master Water Control Manual (Master Manual) and draft environmental impact statement (DEIS). I am responding to your letter because this office has oversight responsibility for civil works activities of the Army Corps of Engineers.

I regret that I am unable to provide you with a final response at this time. Your concerns regarding the potential impacts of revisions to the Master Manual on water rights of your Tribe and regarding economic impacts require additional research and coordination. Working with the Corps, I expect to be able to provide you with a final response within 45 days. Regardless of what our final response may be, I can assure you that the Corps will appropriately include the views of the Standing Rock Sioux Tribe in the draft Master Manual and DEIS. Additionally, the Corps is planning to hold a six-month comment period for these draft documents, along with a series of workshops throughout the Missouri River Basin where opportunities will be available to provide input and ask questions. Also, separate consultation meetings with Missouri River Basin Tribes are being planned.

Finally, I have been informed that Mr. Chip Smith, our Assistant for Environment, Tribal and Regulatory Affairs, spoke with you several days ago and confirmed a meeting with you in Bismarck, North Dakota, for June 27, 2001. Mr. Smith will be prepared to discuss this and other matters during that meeting.

Please do not hesitate to contact this office if you have any additional questions.

Sincerely,

Claudia L. Tornblom
Deputy Assistant Secretary of the Army
(Management and Budget)

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DEPARTMENT OF THE ARMY
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108 ARMY PENTAGON
WASHINGTON DC 20310-0108

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Claudia L. Tornblom
Deputy Assistant Secretary of the Army
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REMARKS OF STANDING ROCK SIOUX TRIBAL COUNCIL MEMBER

The Great Sioux Reservation contained the area now occupied by the Standing Rock Indian Reservation, all of Western South Dakota and the entire course of the Missouri River in the Dakota Territory from the east bank to the west bank Our predecessors, along with the present governing body and membership, regarded the area that we reserved unto ourselves to include all the soil, plains, woods, prairies, mountains, marshes, lakes and rivers within the region, with the fish and wildlife of every kind, within the said limits and all mines of whatsoever kind. The Standing Rock people were invested with all the rights, jurisdictions, privileges, prerogatives, royalties, liberties, immunities, and temporal franchises whatsoever from time immemorial.

The Corps of Engineers in its Master Manual Update and Revision, as well as in the Environmental Impact Statement, has failed to identify these rights, titles and interests in the Missouri River and to properly address them as issues This has been done by the Corps of Engineers over the repeated objections of the Standing Rock Sioux Tribe.

The Corps of Engineers has improperly disposed of consideration of our rights, titles and interests by stating, in effect, that only those rights confirmed by a final court of competent jurisdiction or by congressional settlement will be considered in the Master Manual and EIS. The Corps of Engineers has then proceeded to allocate water to be utilized by upstream and downstream states, by threatened and endangered species, by recreation and navigation interests with no treatment of the prior and superior, vested and perfected water rights of the Standing Rock Sioux Tribe Nor has the Corps of Engineers addressed any decreed or settled water rights of any Indian Tribe in the Missouri River Basin.

With the decisions made in any final Master Manual and BIS, countless interests in the Missouri River, including barge traffickers, marinas, environmental advocates, municipalities and states, among others, will undertake investments, encumber loans, commit appropriations,

settle estates and otherwise make irretrievable commitments that will severely prejudice the future development of the prior and superior rights to the use of water by the Standing Rock Sioux Tribe and its membership. Courts and legislative bodies will be forced into immoral decisions and a twisting of the legal system to confirm the rights established by the Master Manual and EIS against the rights of the Standing Rock Sioux Tribe.

This is not necessary in the Missouri River Basin where sufficient water is currently available to properly and morally treat and acknowledge the water rights of the Standing Rock Sioux Tribe and other tribes with interest in the Missouri River, its tributaries and its aquifers It is not necessary in the year 2002 to impose an allocation in the Missouri River that will forever prejudice the water rights of the Tribe The United States can act scientifically, honorably and morally at the present time to properly address, not ignore, our water rights and avoid the tragedy in other regions of this great nation. We are 100 years beyond the birth of the Reclamation Act, which immediately created a monopolization of water supply in Arizona that now causes State courts to pervert Indian title to maintain the investments of the land speculators that benefited from the Reclamation Act and allocated all available Indian water to the Phoenix metropolitan area.

Recently, the Arizona Supreme Court, faced with the prospect of 4 million people relying upon three sources of water: Indian water rights in the Salt River, the Central Arizona Project (investing billions to divert and pump the Colorado River) and severe over-pumping of finite groundwater resources, committed one of the most immoral acts of any court in this nation in our history by deciding that any Indian water right relying upon irrigation, the long-standing heart of the Winters Doctrine espoused by the United States Supreme Court, can no longer be proved and that any Indian water right for any other purpose must be based on a standard of minimal use for that purpose: 160 gallons per Indian per day or less.

The following is quoted by a southwestern newspaper presenting an article by a hydrologist for the Navajo Nation:

"'(T)ake from the Indian people. . . their lift sustaining Winters doctrine rights and you take from them the bases for their continued existence as a separate and distinct people.' William Veeder, federal attorney, 1972."

"For over a century, Arizona politicians, farmers, cities, businesses and industries have sought to control the state's water resources. Water from the Colorado River and the Gila River basin is what keeps the State's economic engines running. Only within the past two decades, however, have most of the state's 21 tribes been allowed a serious seat at the water rights table. The rules on water rights will determine these tribes' economic survival. But, just as they get more involved, the rules are changing."

"The Arizona Supreme Court, in a decision last November about rights in the Gila River basin, set new rules for measuring Indian right. The court felt tribes might get too much water under existing law, so it set a "minimalist" standard for quantifying Winters rights (Gallup Independent, by Jack Utter)

There is no need for this kind of approach to Indian water rights in the Missouri River Basin, but the Corps of Engineers in its Master Manual and EIS has failed as crudely in 2002 as federal policy did in 1902 when the Salt River Project was initiated, totally committing all water of the Salt and Gila Rivers away from the Indian tribes and to the agriculturalists and land speculators in the Salt River Valley. It is not too much to ask for improvement in federal Indian water right policy over a century of failure. The policies, or lack thereof, presented in the Master Manual and EIS are consistent with the concern expressed by the Ninth Circuit Court of Appeals in its Ahtanum Decision:

From the very beginnings of this nation, the chief issue around which federal Indian policy has revolved has been, not how to assimilate the Indian nations whose lands we usurped, but how best to transfer Indian lands and resources to non-Indians. (United States v Ahtamum Irrigation District, 236 F. 2nd 321, 337).

The Standing Rock Sioux Tribe formally files its Resolution 106 with the Corps of Engineers as its reason and rationale for fully and completely rejecting the Master Manual and EIS.

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EAGLE BUTTE, SOUTH DAKOTA TRANSCRIPT—FEBRUARY 12, 2002

PUBLIC HEARING

ACCEPTING COMMENTS REGARDING

MISSOURI RIVER REVISED DRAFT ENVIRONMENTAL IMPACT STATMENT

MASTER WATER CONTROL MANUAL

PROCEEDINGS HELD AT:

Cultural Resource Center
Eagle Butte, South Dakota

February 12, 2002
1:00 p.m. MST

Reported By: Ms. Lynne M. Ormesher, RPR, Capital Reporting Services, P.O. Box 903, Pierre, South Dakota 57501
(605) 224-7611

* * * * * * * * * * * * * * * * * *

Tuesday, February 12, 2002

CHAIRMAN BOURLAND: We're going to go ahead and get started right now. But I guess before I do, it's always been a tradition at Cheyenne River that we start all of our meetings with a prayer. So if everyone will please rise, remove cover, we'll open this meeting with a prayer.

(Opening prayer lead by Chairman Bourland.)

Recess was taken at this time.)

I want to welcome everybody here today. As Chairman of the Cheyenne River Sioux Tribe it's indeed an honor and privilege to be able to be here today and welcome the United States Army Corps of Engineers as they have come up here today to take comments on the revised draft environmental impact statement for the Missouri River Master Manual.

I guess for those of you that may not be aware of some of the history regarding the Corps of Engineers and the Cheyenne River Sioux Tribe, it kind of goes back to about 1991. I was only the Tribal Chairman for about five months when I was asked by now Senator, and then Congressman Tim Johnson, to testify at a hearing in Washington, D.C. regarding the Corps of Engineers control of the river system.

And basically at that time there was a huge battle between the downstream states and the upstream states regarding navigation versus recreation. And so anyway, I was asked to testify on behalf of the tribes, and it was after my

testimony in Washington, D.C. that the first time to anyone's recollection or knowledge that the Corps of Engineers sent a delegation to Cheyenne River, and basically asked what they could do for us and how they could help accommodate some of our wishes.

It was at that first meeting that we sat down and we looked for the first time at the Master Manual, and we realized then that the Master Manual was not only an incredibly complex document, but it had set forth a lot of acres and lands for certain types of objects that had not been carried out when the river was dammed up. There was a lot of talk about recreation, reforestation, a number of different things that never really happened.

So we have had kind of a love-hate relationship over the years with the Corps of Engineers as a result of that. We don't always agree or see eye to eye on how the river has been controlled, and a lot of times we would like to give our comments to the Corps as to how we think that things should be done.

One area that has been a particular concern, and I do think that the Corps most recently have begun to address, is cultural preservation. Over the years we all know that an immense amount of taking area lands have eroded away into the reservoirs. And I say reservoirs plural because it's a problem that is common to all the reservoirs on the Missouri

ErSd - 39

Other 148

River in the State of South Dakota.

And with the erosion comes the constant problem of cultural properties being lost. Everything from burial sites to various different other sacred areas that have basically washed away over the decades and are now laying in the bottom of the lake. And so with this again the Cheyenne River Sioux Tribe has attempted to work with the Corps to look and do an assessment, I guess, of these properties.

But the issue that I know that is probably first and foremost on a lot of people's minds is the environmental impact. We all know and we all need to be very realistic about the fact that these reservoirs or dams were created with certain intentions of the United States Congress in mind.

Now for those of you that may not have a complete background or history, essentially what happened is they have this big flood, and I think it was in 1942 when the actual flood happened, down on the Mississippi River. It didn't happen in the Missouri River; it happened on the Mississippi River. And by 1944 Congress passed a law that they called the Flood Control Act, which basically was a result of a lot of finagling and negotiation and politicing.

Now if the truth be known, and studies have shown that the real culprit in that particular flood was not the Missouri River, it was actually, I believe, the Mississippi itself and the Ohio. But, of course, it was then politically

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1 unacceptable to propose damming up the Ohio River, so they
2 picked on the big Missouri. Then, of course, the Missouri
3 River didn't have a lot of communities, with the exception of
4 Bismarck, Pierre, Chamberlain and a few others, and they
5 believed that there would be the least impact by controlling
6 this particular river.
7 And in doing so, Congress never took into account
8 that the river had its own ecosystem. It had its own
9 environment. As a matter of fact, by damming up this river,
10 the Missouri River, they not only destroyed hundreds of
11 thousands of acres of prime river bottom land, but an entire
12 ecosystem that existed in those river bottoms, that had
13 existed for thousands of years. Entire species were
14 displaced, moved or destroyed as a result of this damming.
15 In addition to that, the dams were created by the
16 engineers to have a certain life, a certain not only capacity
17 of water, but a certain life. And as a result of that they
18 took additional lands adjacent to the shoreline of the dam
19 called the taking area that it was considered that those lands
20 would erode. They would fall off and flake off into the
21 river, eventually up to the point where the dams would be all
22 silted in, and no longer usable, would no longer serve the
23 purpose of flood control or would no longer serve the purpose
24 of rural electrification, or whatever purpose they had in
25 mind, and thereby the system would be done.

CAPITAL REPORTING SERVICES

6

1 Well, the problem with that is the fact that
2 where there was once a hilltop, now there was water, and the
3 end result is not only did they destroy an ecosystem by
4 damming up the river, but now they had moved it into new
5 territory, into lands that were never intended to have water.
6 And you can go down to the Missouri River right now, or go
7 down to Lake Oahe, you'll see entire shale cut banks eroding
8 at a tremendous rate, while our people buried their dead up on
9 those hills.
10 In addition, you have different ecosystems that
11 exist in these areas, and many of those ecosystems have since
12 washed away, have again went to the bottom of the lake. So
13 these are some of the concerns that we have.
14 In addition, the fact that one of the projects
15 that was promised was irrigation, and while the Cheyenne
16 River Sioux Tribe only had one irrigation project, on the
17 other side of the river there are many, many irrigation
18 projects.
19 One of the big concerns that we have had, and I
20 personally have had, of being a fairly environmental-minded
21 person, is the fact that many of these farmers have irrigated
22 these lands for a long time. They have dumped all sorts of
23 pesticides and fertilizers, insecticides, different things on
24 the land, and a lot of that was washed now down into the
25 watershed and may cause some problems. We don't know what

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CAPITAL REPORTING SERVICES

those problems may be, but we would sure like to know, because of all of those, we could potentially have a mess.

Now, true, one irrigated farm is probably not going to contaminate the entire river system, but if you put a whole bunch of them in mass, it could have some impact.

Finally, the last thing that I have to say is the potential impact that mining in the Black Hills has had upon the river system. We all know that Homestake Gold Mine dumped virtually hundreds of thousands or possibly millions of tons of mine tailings into Whitewood Creek in just mining alone and that's Homestake.

That washed down, of course, into the Belle Fourche River. From there it washed down into the Cheyenne River, and it all come to settle in one place -- actually two places. It came to settle before the river was dammed up at the original mouth of the Cheyenne River.

WQ 29

And after the river was dammed up, all the tailings, up until the federal government forced them to clean up their act, would have settled at the new mouth of the Cheyenne River, which is only about a mile or better upstream from the water intake that we have at Cheyenne River.

I could stand here today and give you statistics. I could give you all sorts of incidents of health problems that our people have encountered on this

reservation since we began drinking the water out of that intake. As a matter of fact, I notice these guys all have bottled water here today, so you're very safe, but the rest of us that live here don't always have bottled water, and we believe that's an environmental concern.

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We have talked to the Corps of Engineers in the past about the problem that we have encountered in this particular area with flooding. What happens, and it's probably not going to happen this year, but what happens is the ice jams. The ice on the Cheyenne River will break up. It will all jam up and create a big dam. The water will back way up and eventually it will burst free. When it bursts free it moves that sediment base from the mouth of the river downstream. In 1979 it moved it right through the intake of the water we're drinking.

WQ 29

We have been working with EPA to try to determine what is in that sediment base; that we realize the sediment is well over 30 foot deep, but we would like to know what is in there. And if there's any of these heavy metals or harmful chemicals that have settled in that area, we would like to know because that is an environmental concern.

So I guess with that being said, there's more people than myself that have a few things to say, and I want to thank the good colonel for coming on up to Eagle Butte, the Corps of Engineers for coming and hearing what we have to say,

and I encourage the people here to step forth to the mike. This is your day to testify. This is a formal hearing and everything that you say is being recorded by a court reporter and will be part of the official record. So please speak freely and speak with your mind and your heart.

Again, I want to thank everyone for coming out today and may God be with you. Thank you.

COL. KURT UBBELOHDE: Good afternoon. Welcome to this tribal hearing. This is the 18th comment session on the Revised Draft Environmental Impact Statement for the Missouri River Master Manual. My name is Col. Kurt Ubbelohde. I'm commander of the Omaha District of the United States Army Corps of Engineers. With me today are members of the team that prepared the RDEIS, Rick Moore, John Larandeau, Jody Farhut; and other core participants are Pem Hall, who is our Native American coordinator out of the Omaha District, as well as representing our cooperating agency WAPA, Mr. Jimmy Black.

We want everyone to have a common understanding of the RDEIS. Copies of that, summaries and handouts, as well as the environmental impact study are available at libraries and project offices throughout the basin. You can get a copy by writing us or get information off our web site, and any member of the team can provide you with the addresses to do that.

In my opening remarks I'll give a brief

description of the comment process, and then we'll take your comments, and we'll stay as long as necessary to be sure that everyone is heard.

This hearing session will come to order. Our purpose this afternoon is to conduct a hearing on proposed changes to the guidelines for the Missouri River Mainstem System Operations. I would like to acknowledge and thank the Cheyenne River Sioux Tribe for requesting and participating in this hearing. This hearing is held in the true spirit of government-to-government relations that the Corps wants to maintain with the tribes of the Missouri River Basin.

Before I proceed, I would like to thank the chairman for his openings remarks, and I would like to identify any other elected members. If they wish to be designated or identified at this time, if they would stand up. Mr. Dave Hump, who is councilman and chairman of the Water, Energy and Environmental Committee.

Ms. Lynne Ormesher of Capital Reporting Services is recording this hearing today. She'll be taking the testimony verbatim and will provide the basis for the official transcript and record of this hearing. This transcript, as well as all of the written statements and other data, will be made part of the administrative record of this action.

A copy of that transcript will be provided to

participating tribes. Persons interested in receiving is a copy of the transcript for this session, or any other session, need to indicate on one of the cards that are available from Jody at the table.

Also, if you're interested in adding to our mailing list, you can also indicate that on your card as well. In order to conduct an orderly hearing it is essential that I have a card from everybody wishing to speak; and on your card give the name and whom you represent. If you desire to make a statement and have not filled out a card, please raise your hand and we'll furnish you a card.

The primary purpose of today's session is to help insure that we all have the essential information we will need to make our decision on establishing the guidelines for the future operations of the mainstem system, and that this information is accurate. This is your opportunity to provide us with some of that information. We view this as a very important opportunity for you to have an influence on the decision. Therefore, I'm glad that you're here this afternoon.

I want you to remember that today's forum is to discuss the proposed changes in the operation of the Missouri River Mainstem System that are analyzed in the Revised Draft Environmental Impact Statement; and therefore, we should concentrate our comments on that issue specifically.

It's my intention to give all interested parties an opportunity to express their views on the proposed changes freely, fully and publicly. It is in the spirit of seeking full disclosure and providing an opportunity for you to be heard regarding future decisions that we have called this hearing. Anyone wishing to speak or make a statement will be given the opportunity to do so.

The Missouri River Mainstem System consists of Corps of Engineers constructed and operated projects, so officially that makes us a project proponent; however, it is our intention that the final decision on the future operational guidelines on this project reflect a plan that considers the views of all interests, focuses on the contemporary and future needs served by the mainstem system and meets the requirements established by Congress.

As hearing officer my role and responsibility is to conduct this hearing in such a manner as to insure the full disclosure of all relevant facts bearing on the information that we currently have before us. If the information is inaccurate or incomplete, we need to know that and you can help us make that determination.

Ultimately the final selection of a plan that provides framework for the future operations of the mainstem system will be based on the benefits that we may be expected to approve from the proposed plan, as well as the probable

negative impacts, including cumulative impacts. This includes significant social, economic and environmental factors.

Should you desire to submit a written statement and do not have it prepared, you may send it to the U.S. Army Corps of Engineers and we can provide you that information as to the address. You may also FAX in your comments or provide them electronically via e-mail. The bottom line is that the official record closes on the 28th of February 2002. To be properly considered, all remarks, written or otherwise, must be received by that date.

Before I begin taking testimony I would like to say a few words about the order and procedure that will be followed. When we call your name, please come forward to the lectern; state your name and address; specify whether or not you are representing a group, agency, organization or speaking on behalf of yourself.

We would appreciate it if you would limit your remarks so that everybody has an opportunity to express their views, but we'll stay here as long as is necessary for everybody to have their full say. If you are going to be reading a statement, we would appreciate it if a copy could be provided to the court reporter prior to speaking so that that may facilitate her taking a verbatim transcript.

After all statements have been made, time will be allowed for any additional remarks. And during the session I

may ask questions to clarify points for my own satisfaction. It is the purpose of this hearing to gather information which we will use to evaluate the proposed plan or alternatives to it. And since open debate between members of the audience will be counter productive to this process, I must insist that all comments are directed to me, the hearing officer.

At this time we'll begin.

MR. RICK MOORE: Julie Thorstenson.

MS. JULIE THORSTENSON: Good afternoon. My name is Julie Thorstenson, habitat biologist with the Cheyenne River Game, Fish and Parks. The statement I'll be reading will be on behalf of the Game, Fish and Parks Department.

There are several issues that need to be addressed in the Revised Draft Environmental Impact statement, such as noxious weeds cottonwood stands, and the tern and plover lake habitat.

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Noxious weeds are increasing problem throughout the State of South Dakota. For years the Corps has contracted with individuals to spray state lands. However, until recently the reservation lands have been ignored. If the entire shoreline is not addressed it is ultimately pointless to spray noxious weeds. Seed dispersal occurs when Lake Oahe water levels are fluctuated.

The Cheyenne River Sioux Tribe is working to eradicate noxious weeds on tribal land within the

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reservation. Since agriculture, mainly cattle production, is the prime source of income for the Cheyenne River Sioux Tribe tribal members, noxious weeds are extremely detrimental to the economy. Noxious weeds lessen the productivity for cattle and compete with valuable native species.

Noxious weeds affect the range quality, productivity and the overall economy of the Cheyenne River Reservation. That is why we feel that this must be considered in revising the Corps Master Manual.

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We are concerned with the negative effects that the lake levels are having to the cottonwood trees. There is very little to no age structure or recruitment within the existing the cottonwood stands. When the lake is low, the cottonwoods come in very thick, but they are then flooded, not allowing a diverse age class.

The cottonwood is very important to the Lakota people. It provided winter shelter and heat to our ancestors. It is also vital habitat to the eagles. Eagles are very culturally significant to the Lakota people. Destruction of habitat along this flyway will lead to reduction or elimination of eagles from the Cheyenne River Sioux Reservation. It is important for the Lakota people to be able to live with the eagles as they have for centuries.

If the cottonwood stands diminish, the Lakota people will lose a part of their culture. In times when many

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of our children are strangers to their culture and language, we cannot afford to lose any more of our cultural ties. Therefore, we feel cottonwood stands must be considered in the revising of the Master Manual.

EnSp 22

The RDEIS discusses the threatened piping plover and the endangered least tern. However, when doing so there is no mention of lake habitat. Therefore, we feel the RDEIS is essentially incomplete. If the U.S. Fish and Wildlife Service considers the lake habitat to be critical habitat for these species, how then can it not be considered when revising the Corps Master Manual.

The Cheyenne River Sioux Tribe has been conducting adult census on Lake Oahe since 1994. We cannot make a sound decision concerning the piping plover and interior least tern without knowing how the proposed alternatives will affect Lake Oahe habitat and essentially their population.

In conclusion, we feel the Revised Draft Environmental Impact Statement is incomplete and inaccurate and are unable to fully support any alternative until appropriate information is obtained.

COL. CURT UBBELOHDE: Thank you.

MR. RICK MOORE: Pamela Snyder.

MS. PAMELA SNYDER: Colonel and co-members of the wildlife service representatives, thank you for coming today,

for listening to our comments. I've provided a statement to the court reporter. I will speak from that in general, but don't hold me to that, please.

My name is Pam Snyder. I am counsel to the environmental protection department of the Cheyenne River Sioux Tribe. Our address is Box 590, Eagle Butte, South Dakota 57625. The comments that I make today are made on behalf of the EPA and the weed committee for the tribal council. The tribal council is considering final comments which will be submitted to the Corps prior to the deadline for the comments period.

The Cheyenne River Sioux Tribe is a major stakeholder in the Missouri River Basin. As such, the Tribe has a vested interest in the management of the Missouri River Mainstem Reservoir System by the U.S. Army Corps of Engineers. Revisions to the Corps' master water control manual, the Master Manual, will directly and significantly impact the Cheyenne River Sioux Tribe. By way of introduction I would like to quote an excerpt from Executive Order 12898:

To the greatest extent practicable and permitted by law, each federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low income populations

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in the United States; Executive Order 12898, 1994.

Executive order 12898 places on federal agencies the task of achieving environmental justice. To do so, the agencies must identify and address disproportionately high and adverse effects of their actions on minority and low income populations.

Operation of the Missouri River is an action of the Corps of Engineers requiring compliance with EO 12898. Preparation of the Revised Draft Environmental Impact Statement for the Missouri River Master Manual, the RDEIS, requires the Corps to comply with the National Environmental Policy Act, NEPA.

The combination of EO 12898 and NEPA creates a process in which the Corps must not only identify the impacts of its operation of the Mainstem Reservoir System, which disproportionately and adversely affect the basin tribes, it must also come up with ways to mitigate those impacts. While the Corps has gone to great lengths to fulfill the former obligation, much work remains to achieve the latter, for example, to achieve environmental justice.

Water level fluctuations in Lake Oahe are of great concern to the Cheyenne River Sioux Tribe. Fluctuating water levels are eroding the western shoreline of Oahe and destroying tribal, cultural and historic sites at an alarming rate. Water quality is affected by lake level fluctuation

and ice movement near the intake for the tribe's main drinking water supply. Water level changes also result in the propagation of noxious weeds, as Ms. Thorstenson just commented. This adversely impacts the tribe's cattle industry. Each of these impacts will be discussed in my remarks.

Lake level fluctuations are perpetuated under all six alternative plans for operation of the Mainstem Reservoir System being considered by the Corps of Engineers in this RDEIS process, and to that reason and others, other reasons I will touch upon in my remarks, the Cheyenne River Sioux Tribe does not endorse any the current water control plan or any of the alternatives under consideration at this time.

Turning first to historic properties: According to the Corps' Historic Properties Technical Report, the Smithsonian Institution conducted a survey of historic properties in the Missouri River Basin prior to inundation. Although archeologically significant at the time, the surveys are very meager by modern standards.

The Corps began comprehensive survey and inventory programs in 1974. Because they took place after the lakes were filled, these surveys involve lands at or above normal pool elevations. The combination of the Smithsonian and Corps surveys include 212,000 acres surveyed and 1400

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sites inventoried.

Although the 21,000-acre figure sounds impressive, the Corps goes on to state at page four of its report that it is reasonable to speculate that not less than 50 percent of all historic properties existing within the five downstream projects are normally inundated. In other words, this cuts the number of surveyed sites above the pool from 1400 down to 700 or less.

Incidentally, only the five downstream reservoirs are included in these numbers because Fort Peck was inundated at the time of the Smithsonian surveys. Little was known about Fort Peck's archeological resources until recently, states the Corps at page 3-169 of the Master Manual RDEIS. Little was known until the Corps sponsored a survey of 2.3 percent of the shoreline of Fort Peck Reservoir. And this survey revealed 159 sites, which, when extrapolated, could yield 2000 more sites on the shoreline of that reservoir. Why is extrapolation necessary? Why were only 2.3 percent of the shoreline surveyed?

Regarding historic properties at the five downstream reservoirs, the Corps lists 1402 archeological sites in and adjacent to Lake Sakakawea, 1,114 at Lake Oahe and 165 other archeological sites, for a total of 2,681 sites, found at RDEIS page 3-169. Obviously, these numbers differ from the Corps' reference to 1400 sites in its

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technical report on historic properties supporting the RDEIS.

The difference raises the question, what are the real numbers? Even more important, however, is the question are the numbers accurate and complete? The answers to these questions are crucial because the Corps' evaluation of the potential for erosion of historic properties from the RDEIS alternatives for operation of the Mainstem Reservoir System were based upon the Corps' estimation of the number of historic properties on the shorelines of the respective reservoirs.

It is the position of the Cheyenne River Sioux Tribe that the Corps has not taken steps necessary to adequately identify historic properties within the area of potential effect of its operation of the Mainstem Reservoir System.

Title 36 of the Code of Federal Regulations Section 800.4 requires the Corps to gather information from Indian tribes and take the steps necessary to identify historic properties within the area of potential effects, found at 36 CFR section 800.4(a)(4) and (b). The level of effort required of the Corps includes making a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history, interviews, sample field investigation, and

field survey. The agency official shall take into account past planning, research and studies, the magnitude and nature of the undertaking, and the degree of federal involvement, the nature and extent of potential effects on historic properties, and the likely nature and location of historic properties within the area of potential effects, found at 36 CFR Section 800.4(b)(1).

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The Tribe acknowledges that the Corps' has consulted with it concerning historic properties. However, the Tribe lacks the capacity to adequately respond to Corps inquiries because it lacks the funding and manpower to undertake a comprehensive survey of historic properties on the shoreline of Lake Oahe. Moreover, while the Corps has apparently conducted studies of historic properties in the Missouri River Basin, those studies do not constitute a systematic, comprehensive survey. Such a survey is needed.

In 2000 more than 150 previously unrecorded traditional and cultural properties were found by the CRST, the Cheyenne River Sioux Tribe's preservation office in the course of surveying recreational lands slated for transfer from the Corps to the Tribe under the Terrestrial Wildlife Habitat Restoration Legislation, known as mitigation.

These recreation areas constitute a small percentage of Oahe's western shore within the Cheyenne River Sioux Tribe Reservation. If the numbers are extrapolated to

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the entire western shoreline, then many more sites could be added to the Corps' list of known sites based on this relatively small survey alone.

It is unlikely that the newly found sites were utilized by the Corps in calculating its historic properties index values for Lake Oahe in the RDEIS. The properties are not listed in the Omaha District's Historic Properties Database file, attached as Exhibit A to the Historic Properties Technical Report. This is not surprising, since the date of the database file is 1993, and the date of the technical report is 1994.

If these newly discovered sites were not included in the Corps' evaluation of the impacts of the proposed alternatives on historic properties, then certainly the as-yet undiscovered sites on the remaining lands on the western shore of Lake Oahe were not considered. The Corps clearly states in the RDEIS that its evaluation of the impacts of its operation of the Mainstem Reservoir System is based upon known sites only.

In Section 5 of the RDEIS, the Corps states that the long-term potential for erosion at each known site was evaluated based on the monthly water level in each of the three upstream lakes and Lake Sharpe, RDEIS page 5-137. It states at page 7-183 that only the effect to known sites is considered in the Historic Properties Index.

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Getting back to 36 CFR Code of Federal Regulations, Part 800, given the nature and extent of potential effects on historic properties, and the likely nature and location of historic properties within the area of potential effects, the Corps' efforts to date do not constitute a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation and field survey, found at 36 CFR Section 800.4(b)(1).

It is a foregone conclusion that operation of the Mainstem Reservoir System on the Missouri River is a federal undertaking of incredible magnitude pursuant to 36 CFR Section 800.4(b)(1). So is changing that operation. The Corps' level of effort in identifying historic properties on the shorelines of the reservoirs is also driven by the nature and extent of the potential effects of river operations on historic properties.

The Corps recognizes that historic properties located within the reservoir zone are subject to annual fluctuation, and properties located within a few vertical feet up or down from that zone, are likely to receive a wide range of severe impact. Now, given the magnitude of the Corps' undertaking and the extent of the potential effects on historic properties, the level of effort required of the Corps

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1 in identifying historic properties subject to destruction due
2 to wave action and erosion, is high.
3 The Corps' obligation with regard to historic
4 properties does not stop there, however. In addition to
5 identifying historic properties and assessing adverse effects
6 on them, Corps officials must develop measures in the RDEIS
7 to avoid or mitigate such effects. The Corps acknowledges
8 this obligation at Page 12 of its Technical Report on Historic
9 Properties, where it states, Procedural compliance with the
10 National Historic Preservation Act and NEPA further requires
11 description, evaluation of, and agreement upon, any measures
12 proposed to mitigate the adverse effect, or selection of an
13 alternative to the federal undertaking in question.
14 The Corps quickly rules out the idea of
15 developing an alternative to operating the existing reservoir
16 system, or an alternative for operating the reservoir system
17 that would not adversely impact historic properties. Instead,
18 it admits that mitigative measures to lessen the severity of
19 the impact may be the only means of compliance.
20 Unfortunately, mitigation measures called for
21 under Section 106 of the National Historic Preservation Act
22 are lacking in the RDEIS. The Corps tells us that lake level
23 fluctuations and wave action are inevitable in the operation
24 of the Mainstem Reservoir System. It states that known
25 historic properties, which include, but are not limited to,

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CAPITAL REPORTING SERVICES

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1 prehistoric sites, tribal cultural resources, and historic
2 sites, are adversely affected by all the alternatives.
3 Increased conservation during droughts is likely the primary
4 factor leading to this result, and this is at Page 7-233.
5 The Corps then points to the bank stabilization
6 efforts undertaken in the lower basin as evidence of its
7 attempts to mitigate the adverse impacts of reservoir
8 operations on historic properties. Table 3.15-1 at Page 3-171
9 of the RDEIS details those efforts. Only 21 bank
10 stabilization projects are listed for a total expenditure of
11 $1,759,000 over 23 years.
12 Repatriation of Native American remains under
13 the Native American Grave Protection and Repatriation Act
14 adds little to the Corps' column. When compared with the
15 millions, if not billions of dollars being spent or
16 sacrificed to mitigate the adverse impacts of river operation
17 on three listed species in the basin, the Corps' efforts at
18 addressing the destruction of irreplacable historic
19 properties would be laughable if the situation were not so
20 serious.
21 Clearly, the Corps has thrown up its hands. In
22 its Historic Properties Technical Report, the Corps advises
23 that measures to mitigate the loss of value inherent in
24 historic properties involve either site protection or
25 information retrieval, archeology. Either measure, says the

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Corps, requires substantial investment of money and manpower, both of which have historically been in short supply compared with the legislative compliance requirements.

The Corps concludes its discussion of mitigation requirements at Section 7.20.1 of the RDEIS with the following remarkable statement: Because the Corps has existing programs to address the protection of sites or their documentation if protection cannot be accomplished, new effort to mitigate the effects of the operation of the Mainstem Reservoir System on known sites are not required. Continued effort to protect the sites are necessary to limit the adverse effects of the exposure or loss of the known sites.

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Finally, NEPA and the National Historic Preservation Act require the Corps to not only develop measures to avoid, minimize or mitigate adverse effects on historic properties of operation of the Mainstem Reservoir System, but to include a binding commitment to such measures in its Record of Decision on the Master Manual. The near-nonexistent status of the Corps' mitigation measures for historic properties raises the question: Binding commitment to what?

In sum, historic properties are as priceless and threatened as the least tern, piping plover and pallid sturgeon. The entire river system is being altered to address the plight of these animal species. The Cheyenne River Sioux

Tribe is requesting that the Corps give the same consideration to its endangered historic properties.

Turning to quality, in the water quality sections of the RDEIS, the Corps tells us that problems exist. Elevated concentrations of arsenic, manganese, iron and beryllium have been monitored in Lake Oahe and its inflows. In 2000, state water quality standards for mercury, phosphorus, sulfate and iron were exceeded at Lake Oahe. Arsenic commonly exceeds state water quality standards in Missouri River lakes.

Although arsenic, selenium and mercury occur naturally in the soils of the basin, mining in the Black Hills has contaminated the Cheyenne River with high levels of mercury. The Cheyenne flows into Lake Oahe and forms the southern boundary of the Cheyenne River Sioux Tribe reservation.

In addition to these elements, sediment is being eroded, transported and deposited within the dam system. This is a normal process. Sediment was continually moved by the Missouri River even before it was dammed. Now, however, sediment is settling out in the reservoirs and at the mouth of tributaries flowing into them.

Significant sediment deposition is apparent at the mouth of the four major tributaries that flow into Lake Oahe: The Cheyenne, the Moreau, the Grand and the Cannonball

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1 Rivers. The sediment in these deltas contains arsenic,
2 mercury and other metals. Arsenic and mercury are of
3 particular concern to the Cheyenne River Sioux Tribe, because
4 the intake for the tribes main public water supply system is
5 located in Lake Oahe adjacent to the Cheyenne River delta.
6 Wave action, lake level fluctuation and ice
7 movement stir up sediment. Let's look at wave action quickly.
8 According to tables 5.4-1 and 7.4-1 in the RDEIS, wave action
9 erodes and agitates the lake sediments during low lake levels,
10 potentially causing elevated dissolved arsenic concentrations
11 in the water column. These elevated arsenic concentrations
12 during low lake elevations and drought conditions may affect
13 domestic water use, requiring additional treatment prior to
14 domestic use and cause chronic effects to aquatic life in
15 lakes. The adverse effects are greatest during droughts when
16 lakes are drawn down and bottom sediments are exposed to wave
17 action, RDEIS pages 5-6-28 and 7-26-28.
18 Both Oahe Dam releases and lake levels have
19 varied considerably. In its water quality technical report
20 supporting the RDEIS, the Corps states releases have been
21 extremely variable since the project became fully
22 operational. Daily outflows range from less than 1000 cubic
23 feet per second up to 55,000 cubic feet per second. Regarding
24 lake levels, the technical report states: Much fluctuation
25 has occurred throughout the history of the reservoir; Corps

1 1994, page 19.
2 Several years ago the Missouri River Basin States
3 Association asked the Corps to sample and analyze delta
4 sediment to test the hypothesis that raising and lowering lake
5 levels result in sediment resuspension, potentially adding
6 contaminants to the reservoir and degrading water quality.
7 This is a main concern brought to the Corps attention. The
8 Corps did sample several pollutants, including mercury,
9 cadmium, lead, chromium, zinc, selenium, arsenic, nickel and
10 pesticides. Significantly, arsenic consistently showed
11 significant increases, sometimes exceeding a factor of 10.
12 Moreover, the finer the sediment, the greater the
13 arsenic concentrations. Corps 1994, Pages 44 and 52. Finer
14 sediments are generally more chemically active, thus
15 perturbations such as wind-wave action can result in chemical
16 changes associated with the transfer of materials from an
17 anaerobic environment in the sediment to an aerobic
18 environment in the overburden water. It is also suspected
19 that storm events and high winds, which are common in the
20 Missouri River Basin, cause high metal concentrations in the
21 water.
22 The Corps emphasizes that the stirring of bottom
23 sediments in shallow areas of the reservoir is going to occur
24 no matter what the pool elevation. This is a natural, ongoing
25 process which occurs at all reservoirs with relatively soft

bed sediments, Corps 1994 page 44.

On the other hand, delta growth is a dynamic process, and as the reservoir fills, areas which are now comprised of fine sediments, silts and clays, will eventually become areas dominated by more coarse sediments, sand, as the delta grows in the downstream direction. As particle size increases, arsenic concentrations generally decrease. Unfortunately, the Oahe, the Moreau and the Grand River deltas could not be analyzed for particle size relationship, since only one sample was taken.

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In sum, arsenic exists in the sediment of the deltas of tributaries flowing into Lake Oahe. The arsenic is found in higher concentrations in the fine sediment. Wave action, lake level fluctuation and ice movement stir up the arsenic bearing sediment and suspend it in the water column. None of the alternatives being considered by the Corps in the RDEIS will change this fact of reservoir operations.

The Corps' solution, test and treat your drinking water because the stirring of sediment in shallow areas is inevitable no matter what the Corps does. This suggestion is hardly encouraging to the Cheyenne River Sioux Tribe, whose intake for its main public water supply system is located in the Cheyenne River arm of Lake Oahe.

Turning to mercury, we learn that this pollutant is ubiquitous in basin, but more of it was contributed to Lake

Oahe from mining operations at the Homestake Gold Mine in the Black Hills. Although the mine was declared a Superfund site, and thus this point source of contamination has been controlled, the Cheyenne River sediments remain contaminated and continue to be deposited into the Cheyenne arm. Corps 1994, Page 32.

While observed mercury levels are below EPA drinking water standards, the Corps advises that the presence of mercury and its variable concentration suggests that it should be monitored by municipalities which use the lake as a water supply.

Fish tissue samples collected by the South Dakota Department of Game, Fish and Parks and the Cheyenne River Sioux Tribe in 2000 in the Cheyenne River, the Moreau and the Grand Rivers and these arms of Lake Oahe contained sufficient mercury to warrant a consumption advisory on fish caught in waters adjacent to tribal lands. As a result of the study, the South Dakota Department of Game, Fish and Parks was to extend the area of study to other portions of Lake Oahe in 2001.

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As with historic properties, the Corps' identification and assessment of water quality problems in the Missouri River Basin have been less than stellar. There is limited information regarding how water quality has changed since the construction of the Mainstem Reservoir System, says

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1 the Corps in Section 3.5.7 of the RDEIS. Although monitoring
2 information is gathered by the Corps, the basin states, the
3 U.S. Geological Survey and EPA, no monitoring program exists
4 that integrates and evaluates all the information. RDEIS
5 pages 3-36 and 3-44.
6 Spatial variability prevents our monitoring
7 program from being a reliable indicator of the conditions
8 which exist at the water supply intakes says the RDEIS.
9 What's the Corps' suggestion? In light of this problem the
10 Corps suggests that personnel responsible for water quality
11 sampling should be updated in sampling techniques. The
12 Cheyenne River Sioux Tribe agrees.
13 The Tribe also agrees with the Missouri River
14 Natural Resources Committee and the Biological Resources
15 Division of the U.S. Geological Survey, that more science is
16 needed. The Missouri River Environmental Assessment Program
17 is a good start.
18 The purpose of the program is to provide the
19 scientific foundation for Missouri River management
20 decisions. The program hopes to expand current state and
21 federal monitoring efforts and start new ones. It will
22 establish a system-wide database containing information on
23 fish, wildlife, habitat and water quality and define the
24 baseline of current river conditions. The Tribe is pleased to
25 learn that both the public and government agencies will have

1 equal access to this database.
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2 The environmental assessment program will also
3 conduct long-term monitoring of river resources and focused
4 investigations of the cause and effect relationship between
5 river operations and the river's response. Of course the
6 program is entirely dependent upon funding. Given the fact
7 that tribal drinking water is at stake, funding of the program
8 has environmental justice implications.
9 Neither has the Corps developed viable mitigation
WQ 29
10 measures for the water quality issues raised in the RDEIS.
11 Although the Corps acknowledges that resuspension of arsenic
12 and mercury from delta sediments and bioaccumulation of metals
13 in fish tissues are concerns of tribes in the basin. The
14 Corps' solution is not development of mitigation measures to
15 address these issues. Rather, the Corps advises local
16 governments to test their water before drinking it.
17 Along the same lines, we are told in the RDEIS
WQ 29
18 that the MCP leaves more water in the three upper mainstem
19 lakes during drought and reduces lake level fluctuation. The
20 increased volume improves water quality by diluting
21 pollutants. The GP options will improve water quality even
22 more because they will leave even more water in the lakes than
23 the MCP.
24 However, none of the alternatives limits the
25 suspension of metals into the water column and the

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1 accumulation of toxic elements in fish tissue in Lake Oahe.
2 Thus, neither the CWCP nor any of the RDEIS alternatives being
3 considered by the Corps mitigate the water quality issue of
4 greatest concern to the Cheyenne River Sioux Tribe.
5 The Corps is correct in stating that it is not
6 the source of pollutants entering the Missouri River. Neither
7 does it regulate water quality in the basin. States, tribes
8 and the federal Environmental Protection Agency, EPA, manage
9 water quality under the Clean Water Act and Safe Drinking
10 Water Act. That the Corps is not the source of water
11 pollution or the regulator of water quality, however, does not
12 relieve it of its responsibility to satisfy the environmental
13 justice principles of Executive Order 12898 by identifying and
14 mitigating water quality problems created or exacerbated by
15 its management of the Missouri River Mainstem Reservoir
16 System. So far, no solutions have been offered.
17 What about dredging and removing the contaminated
18 delta sediments? What about erecting barriers to minimize
19 lake level fluctuation in the deltas and prevent ice
20 movement? What about covering the contaminated sediment with
21 coarser sediment? What about moving the intake for the
22 Tribe's public water supply system away from the Cheyenne
23 River delta?
24 Finally, let's take a brief look at hydropower.
25 The Cheyenne River Sioux Tribe is very concerned about

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1 increased electricity rates for tribal members. It is the
2 tribe's understand that all of the alternatives being
3 considered in the RDEIS process would increase measures of the
4 MCP and the GP options would leave more water in the
5 reservoirs. This held-back water, known as head, constitutes
6 the capacity of the dams to produce hydropower.
7 As the water is released and run through the
8 turbines in the dams, power is generated. In this way GP 1528
9 would produce the greatest hydropower benefits. The CWCP
10 produces the least. The other alternatives fall in between.
11 The difference between GP 1528 and CWCP, however, is only 2.3
12 percent.
13 In spite of the fact that the MCP and the GP
14 options increase the capacity of the mainstem dams to generate
15 hydropower, all of the GP options decrease hydropower
16 revenues. How? By releasing water from the dams other than
17 during the summer and winter peak demand periods when the
18 hydropower is most valuable. The higher the demand for power,
19 the greater its value. Because demand is greatest in summer
20 and winter, energy produced during these seasons is of greater
21 overall value than energy produced in the spring and fall.
22 When water is released from the dams other than
23 during these summer and winter peak demand periods, revenue
24 is lost. And beyond that, WAPA, Western Area Power
25 Administration distributes the power, has to buy power to

1 replace the power that could have been generated if it could
2 release the water during these peak seasons.
3 In this way GP 1528 and GP 2028, the two GP
4 options which release only enough water in the summer to
5 maintain minimum navigation service, decrease annual
6 hydropower revenue by an average of $8 to $9 million when
7 compared to the CWCP. The GP options which split summer
8 season releases and release the least amount of water during
9 the summer peak demand period, that's GP 1521 and GP 2021,
10 have about a $30 million average annual adverse impact on
11 hydropower revenues.
12 These revenue losses translate into increased
13 electricity rates for customers who purchase power from the
14 Pick-Sloan project through the Western Area Power
15 Administration, WAPA.
16 The magnitude of the hit caused by these
17 increased rates depends on the amount of power a particular
18 customer purchases from Pick-Sloan, from the Missouri River
19 dams. WAPA estimates that basin tribal customers purchase 60
20 percent of their total power from Missouri River hydropower
21 sources. As shown in figure 7.10-22 in the RDEIS, and Figure
22 A-9 in the Tribal Appendix to the RDEIS, the increase in
23 power costs incurred by basin tribes under the Gavins Point
24 options ranks from two percent for GP 1528 up to ten percent
25 for GP 1521 and GP 2021.

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1 In other words, it appears to the Tribe from the
2 RDEIS that tribal electrical rates could increase anywhere
3 from two to ten percent, depending upon which alternative the
4 Corps selects. This is a serious increase to tribal members.
5 It will adversely impact affordable housing to tribal members,
6 and for that reason the Tribe is very concerned about the
7 impact of the alternatives on hydropower.
8 I want to thank the Corps representatives,
9 particularly you, Colonel, for coming today and listening to
10 our comments.
11 COL. KURT UBBELOHDE: Thank you.
12 MR. RICK MOORE: Next testimony, Harold Frazier.
13 MR. HAROLD FRAZIER: My name is Harold Frazier,
14 vice chairman of the Cheyenne River Sioux Tribe.
15 Just to elaborate on some of this, I guess on the

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16 Master Manual, one of the things I got was the hydropower, and
17 from the way I read it, I see that some of your alternatives
18 are going to affect our electricity rates, and that's a huge
19 concern of tribal members, Native American members. If you
20 look on the census, the 2000 census, Ziebach County is the
21 poorest county in the nation, and that county is half of our
22 reservation, and I think Dewey County is like fifth overall.
23 So there's a lot of concern on the cost of
24 electricity. Many of our members only get about $4,000 per
25 year to live on and can't afford electricity rates, and I

cannot understand why the federal government allows cooperatives to charge outrageous electricity rates, because we have the tributary flowing into the Missouri River into Lake Oahe, the Cheyenne and Moreau River and lots of creeks and draws.

Another thing, to comment on erosion, sediment, you know, a lot of our land is going into the water and is useless for the people. And I'm really upset about the history and what the Corps has not done, I guess, on Cheyenne River. The only trees that we have is along the Moreau River. There's no -- we don't have no trees or any type of vegetation like that.

Other - 300

I take offense to what the Corps has done in regards to 1804 and 1806 roads. You know, look on our side of the river, Cheyenne River here, there's no -- you go to the east side of the river, on the non Indian side you have paved roads up and down the river, and on our side there's no kind of improvement, no recreation sites have ever been developed on our reservation by the Corps, which I think there should have been. It's in the past, but maybe they should appropriate money and try to assist the Tribe in trying to develop recreation sites.

Tribal 33

And I'm going to problems in some portions of your manual. I know one of them said there were seven sites on our reservation by water intakes. We only know of two, and

Tribal 33 (cont'd)

the only question you guys gave your presentation to the Tribe and I don't know, we were promised that map would be provided to us and I haven't heard or seen of any map that's been developed.

Again, I guess the main thing I'm concerned with is the electricity rates. I think that we should get direct power from Lake Oahe here. Thank you.

COL. KURT UBBELOHDE: Thank you very much.

Are there any others who care to make a statement? Ma'am, could we get you to fill out a card?

MS. GERMAINE MEANS: I'm an elder of the Cheyenne River Sioux Tribe, and I happen to be one of the left-over products of the old Cheyenne Agency which was flooded by the Corps of Engineers. And we have suffered not only in the area of our land and historic elements, but there were so many promises.

Other - 300

The other two areas have been addressed by the government and Corps of Engineers, which as of today has not been done, such as the permanent road system. And I drove the road on the east side of the river, in essence, to the one we received on the west side, and there's such a great, tremendous difference there, and that never has been followed through by the Corps of Engineers to my knowledge.

The other area is the historical site that is very dear to us, and that's Medicine Rock Historical site

that sat on the east bank of the Missouri, right opposite the Cheyenne River, Cheyenne Agency. There's a few other sites that I don't have with me right now. I wasn't really prepared to make any kind of statements that I could use statistics.

But these are some of the things that just comes to my mind that need to be addressed yet, and so then I'm sitting here thinking of all of these other things that are entering into play here, what's going to say and who is going to live up to all this planning that is being done now; it wasn't done and will it be done now.

Other - 301

There are so many other areas that we have suffered as a result of the taking area, such as the livestock. There was a lot of livestock which was lost down along the Corps land because the high level mark far exceeded what was anticipated. And so a lot of cattle have wandered out in there because there was water and there was a big loss that we still continue to take as of today.

The other thing is destroying continually, continued on to destroy a lot of trees and shrubbery along areas that are from the mouth of the Moreau west where again high water level has far exceeded and is continuing to destroy the land up in that area. A lot of these areas have not been addressed as of yet today.

And so I have question in my mind, and a lot of

Tribal 9

these statistics that have been taken and evaluations that were taken, there's a lot of historical sites that a lot of us old-timers are aware of that as of today have not been considered or reviewed by the Corps of Engineers and I am against this plan unless there is more input and more specific areas that need to be addressed where we're going to get some recognition and some action on behalf of the Tribe. Thank you.

MS. MADONNA THUNDER HAWK: My name is Madonna Thunder Hawk. I live on the east end of the reservation in Swiftbird Community, where the old Cheyenne Agency used to be. And as far as people that still live down in that area, thanks to the Army Corps there's no mention of the old Cheyenne Agency ever being in existence, after being gone about 20 years. This was in the early '90s I came back and there was a sign up that said Forrest City ramp, or something. Anyway, that's just something that's bugged me over the years.

Tribal 34

But I just have a few comments. I'm not sure of the process of the Army Corps of Engineers, and I mean to me it's just this huge bureaucracy, like they all are, but the comments I would like to make is I was really glad to see this document here furnished by our tribe, comments of the Cheyenne River Sioux Tribe, Department of Game, Fish and Parks. I'm really proud of that, proud of our tribe and really proud of

this document, very impressed.

You know, we are no longer going to sit by and let things happen. We're not going to acquiesce anymore. I realize, also, that the Bush administration, and what's going to happen with money appropriations and the cuts that are going to come in all areas, so maybe this is just, you know, something that has to be done because it's asked for, you know. Maybe the plans are already cut and dried. Maybe you guys are just going to go on in the first place.

But out here we're still tribal people and we still have feelings for our land and we still have ties to the land, and we know we're going to be struggling in generations of struggle on issues like this. So I don't know your federal agency, or what have you, but out here we're still people. We have different feelings for the land and our resources.

So I'm glad to see that you've finally come, and I think John had a lot to do with that because she's an enrolled member here, and she also grew up down at Old Agency. We stood by and watched that. The water come and covered our homeland. So I have children and grandchildren and they will still be here after I'm gone as the tribe, being concerned about this whole issue of holding the federal government's feet to the fire, regardless of what agency you represent.

So I want to -- I'm sure you've had many welcomes

WQ - 29

here, but I'll add mine. Thank you.

MR. LANNY LaPLANT: Hello. My name is Lanny LaPlant and I'm a councilman from District 5, and I am probably one of the last ones, with Madonna, from the Old Agency who graduated, 1959, the last graduating class from that school. Right after we got out, we got flooded. So I guess that means a lot to us.

But my major concern here is as a long time council representative we done the study here and I made amendments or introduced resolutions to amend, being worried about the intake of the waterlines down along the Cheyenne River arm. I've introduced resolutions to move it over here on the north side of the Moreau River where there's less chance of pollutants from the gold mines.

I know it was in the news here Perkins County applied for water, such as everybody else is doing. It was not only approved but it would be feasible if we could extend our waterlines over west to there, pick up their water needs and also in the same process move our intake over on the Moreau River side. If you have anything to do with it, I think that would be a good thing for us, because a study was done here within District 5.

I represent District 5, which is from Highway 212 south and Main Street east, like within a mile area. We had the highest rate of cancer deaths within the last few years

since we've been here, and that study has been done, and I don't know if it's material that was used to build the pipeline. I probably blame part of it on that, plus the remaining blame on the water that comes out of the Cheyenne River. So that is my biggest concern, and I wish you could do something to help us out, and I thank you.

COL. KURT UBBELOHDE: Are there any others who wish to speak? Ma'am?

MS. GERMAINE MEANS: I have a question, but this is off the record.

(Off the record discussion.)

COL. KURT UBBELOHDE: All right. If there are no other speakers I would like to remind you that the administrative record will be closed on the 28th of February 2002, and that anyone wishing to submit further testimony in writing, electronically or by FAX, should do so by that time.

Again, if you wish to be added to our mailing list to receive a copy of this transcript or any other transcripts, please fill out one of the mailing cards at the front table. Once again, I would like to thank the Cheyenne River Sioux Tribe for requesting and participating in this hearing in their tribal homeland, and this hearing session is closed. Thank you.

(End of proceedings.)

STATE OF SOUTH DAKOTA)
) CERTIFICATE
COUNTY OF HUGHES)

I, Lynne M. Ormesher, Registered Professional Reporter, hereby certify that the foregoing pages 1 through 45, inclusive, are a true and correct transcript of my stenotype notes.

Dated at Pierre, South Dakota, this 20th day of February, 2002.

Lynne M. Ormesher, RPR

Tribal Comments
Cheyenne River Sioux Tribe
Preservation Office
COE Master Manual

HISTORIC PROPERTIES

The C.R.S.T. Preservation Office has reviewed the United States Army Corp of Engineers Missouri River Master Water Control Manual and prepared the following commentary on behalf of the Cheyenne River Sioux Tribe. Historic properties under National Historic Preservation Act include historic and prehistoric archaeological sites, historic architectural and engineering features and structures and resources of significance to Native Americans and other social or cultural groups. The Master Manual has a property value index for historic sites that reflects an increase or a decrease in value concerning impacts to sites based on water levels. The higher the value the less effect on a historic site. The value index is created upon the number of "known" sites that exist along the lakeshores and then mathematically computing the percentage of site degradation occurring as a result of a water level impact.

The National Historic Preservation Act identifies properties that are included under the term historic properties however NHPA does not include in its definition section any language pertaining to Traditional Cultural Properties (TCP). Traditional Cultural Properties are discussed in NPS Bulletin 38 and this document the Master Manual does not reference. NHPA does make reference to "*Traditional religious and cultural properties*" in section 101(6)(A) but it does not identify specifics and makes absolutely no mention of these in the definitions section 301 (16 U.S.C. 47w).

The tribal position is that the Corp has failed to adequately identify all of the property types that are located along the lakeshores and that it has based its property value index on outdated and inaccurate information. The database used to develop the value index is dated for 1993 while the technical report is dated 1994. Furthermore the tribe believes that the projected impact zone used by the Corp to assess and/or calculate impacts to sites is inadequate because it does not extend far enough off of the 1620 elevation line. Erosion along the lakeshore causes sloughing and this sloughing reaches back onto the land quite a distance from the lakeshore and sites that are located above the 1620 line and sites located out of the impact zone do receive impacts and suffer degradation as a result of sloughing. Another concern the tribe has concerns the east bank of the lakeshore. Corp take lands on the east bank do not extend as far back from the shoreline as they do on the west bank lands. The take lands on the east bank and the Corp

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obligation to mitigate and preserve known sites only extends to the take land boundary line. Sites located above this line are receiving impacts due to lake operations but are they included in the known sites listing?

The Corp data used to establish its value index is simply to old and outdated to be used as the basis for the index. A case in point is in 2001 surveys were done on 20+ recreation areas scheduled to transfer to the State of South Dakota. Known sites located at these recreation areas were surveyed to check their condition and determine if or how they had been impacted since their original discovery. In this particular project several of the sites listed in the database and revisited by Corp archaeological personnel to investigate them were gone. They had been eroded and washed out into the lake. The tribe asserts that follow up surveys on the "known" sites has not been done on a regular basis to gage whether or not existing sites lying along the lakeshore are 100%, 75%, 50%, 25% intact or have already been destroyed. This is extremely important to know because this information directly affects the existing database. The tribal assumption is the value index is based upon the number of known sites and that these sites are at 100% integrity. If however this is not true then the database information is already flawed and inaccurate and the value of the sites is off.

CONCLUSION

The tribe wants new surveys done on the lakeshores to locate and identify previously unknown sites referenced in NHPA but also TCP sites, which the Corp has little information on. Follow up surveys on known sites must be done to measure their current integrity against their original integrity when first recorded. To truly calculate the impact effect on sites based upon water levels TCP property types must also be included into the COE value index and all of the above concerns must be done. Remember that the alternatives presented in the Master Manual address impacts only to known historic properties and the tribal position is that no efforts have been made to factor in impacts to TCP sites or impacts to sites outside the projected impact zone. Based on the commentary the tribe at this time cannot endorse any of the alternatives currently listed in the Master Manual. If as we suspect that the database is inaccurate then the value index reflecting impacts to known sites is also inaccurate and does not portray a true measurement.

POPLAR, MONTANA TRANSCRIPT— FEBRUARY 13, 2002

MISSOURI RIVER MASTER MANUAL HEARING AND THE GOVERNMENT-TO-GOVERNMENT CONSULTATION ON THE REVISED ENVIRONMENTAL IMPACT STATEMENT (RDEIS) FOR THE MISSOURI RIVER MASTER MANUAL AND THE SPRING RISE (M.R. & I. WATER PIPELINE DEPARTMENT, OFFICE OF ENVIRONMENTAL PROTECTION, FISH & GAME DEPARTMENT, AND THE WATER RESOURCE DEPARTMENT)

HELD AT: Fort Peck Tribes Cultural Center
Poplar, Montana
February 13, 2002, 11:10 a.m.

APPEARANCES:

Hearing Officer: Col Kurt F. Ubbelohde, Commander and District Engineer of the Omaha District, U. S. Army Corps of Engineers

Missouri River, Master Manual representatives: Jody Farhat, Bill Miller, Doug Latka, Pem Hall, Rick Moore, John LaRandeau

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The following proceedings were had:

COL KURT F. UBBELOHDE: Good morning. Welcome to the tribal hearing.

This is the 19th comment session on the Revised Draft Environmental Impact Statement for the Missouri River Master Manual.

My name is Colonel Kurt Ubbelohde. I'm the commander of the Omaha District, United States Army Corps of Engineers. With me today are members of my team that prepared the Revised Draft Environment Impact Statement, Rick Moore, John LaRandeau, Jody Farhat, also Pem Hall, from the Omaha District, and Bill Miller. And representing our WAPA Cooperating Agency is Brad Warren.

We want everybody to have a common understanding of the RDEIS. Copies of the summary and handouts, as well as the entire document, are available at libraries and project offices throughout the nation. Also you can get a copy by writing us or over the web site. And the address is available from

one of the team members.

In a moment I'll give you a further description of the comment process and then we'll take your comments. And I just want everybody to understand that we'll stay here as long as necessary so that everyone can be heard.

This hearing session will come to order. Our purpose this morning is to conduct a hearing on proposed changes to the guidelines to the Missouri River mainstem system operation. I would like to acknowledge and thank the Assiniboine and Sioux Tribes of Fort Peck for requesting and participating in this hearing.

This hearing is held in the true spirit of government-to-government relations that the Corps wants to maintain with the Tribes of the Missouri River Basin.

Before I proceed, do we have any elected officials or representatives here that wish to be recognized?

TOM ESCAISEGA: (Raises hand.)

COL KURT F. UBBELOHDE: If you'd just stand and state your name.

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TOM ESCAISEGA: Tom Escaisega, Fort Peck Tribe, Municipal Rural and Industrial Water Pipeline Project.

COL KURT F. UBBELOHDE: Ron LaPierre is our reporter this morning. He'll be taking verbatim testimony that will serve as the basis for the official transcript and record of this hearing.

This transcript with all written statements and other data will be made part of the administrative record. A copy of this transcript will be provided to participating tribes.

Persons interested in receiving a copy of the transcript for this session or any other session need to indicate so on one of the cards available by the entrance.

Also if you're not on our mailing list and desire to be so, indicate that on a card as well.

In order to conduct an orderly hearing, it is essential that I have a card from anyone desiring to speak giving your name and whom you represent. If you desire to make a statement and have not filled out

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a card, please raise your hand and we'll furnish one for you.

The purpose of today's session is to help insure we have all the essential information we will need to make our decision on establishing the guidelines for the future operations of the mainstem and that this information is accurate. This is your opportunity to provide us with some of that information. We view this as very important. You have an influence on the decision.

I want you to remember that today's forum is to discuss the proposed changes in the operation of the Missouri River mainstem system that are analyzed in the RDEIS, which concentrate our efforts on this specific issue.

It is my intention to give all interested parties an opportunity to express their views on the proposed changes fully, freely, and publicly. It is in the spirit of speaking a full disclosure and providing an opportunity for you to be heard regarding the future decision that we have called this

hearing. Anyone wishing to speak or make a statement will be given the opportunity to do so.

The Missouri River mainstem system consists of corps of engineering constructed and operated projects. So officially that makes us a project proponent. However, it is our intention that the final decision on the future operational guidelines for these projects reflect a plan that considers the views of all interests, focuses on the contemporary and future needs serves by the mainstem system, and meets the requirements established by Congress.

As hearing officer, my role and responsibility is to conduct this hearing in such a manner as to insure the full disclosure of all relevant facts bearing on the information that we currently have before us. If the information is inaccurate or incomplete, we need to know that and you can help us make this determination.

Ultimately the final decision -- or, excuse me -- the final selection of a plan that provides the framework for the future

operation of the mainstem System will be based on the benefits that may be expected to accrue from the proposed plan as well as probable negative impact including cumulative impact. This includes significant social, economic, and environmental factors.

Should you desire to submit a written statement and do not have it prepared, you may send it to the U.S. Army Corps of Engineers, Northwestern Division in the Omaha office, attention Missouri River Master Manual. You may also submit your comments via FAX or electronically.

If you need further information on how to submit your comments, we can provide you that information. Just ask one of the team members.

The official record for this hearing closes on the 28th of February, 2002. To be properly considered, all the information must be postmarked by that date.

Before I begin taking testimony, I'd like to say a few words about the order and the procedure that will be followed. When

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we call your name, please come forward to the podium, state your name and address, and specify whether or not you are representing a group, agency, organization, or if you're speaking as an individual.

We would appreciate it if you would provide anything that you're reading verbatim, written, that you provide a copy of that to the court reporter to facilitate his taking down your remarks.

After all of the statements have been made, I will be allowed, in case there are any additional remarks and during the session, I may ask questions which will clarify points for my own satisfaction.

Since the purpose of the hearing is to gather information which will be used for evaluating the proposed plan or alternatives to it, and since open debate between members is counterproductive to this purpose, I insist that all comments be directed to me, the hearing officer.

At this time I think we're ready to begin.

RICK MOORE: Okay. We have one

Tribal 12, 13, 35

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card. Tom Escaisega.

TOM ESCAISEGA: My name is Tom Escaisega, the manager of the M.R.&I. Water pipeline project with the Fort Peck Tribes. And we had previously went to the Corps when we had a consultation here or, I guess, a public meeting and we requested this consultation between the Corps and the Fort Peck Tribes.

And at this present time, I'm the only one here from the Tribes. I also have with me in attendance our engineer for our M.R.&I. Project, Mr. Mike Watson, and also for your EA person, environmental statements, is Joe Elliott. And after I get done, I think they may want to give a little bit of testimony.

But to start with the history a little bit, in 1888 our reservation was formed by an executive order; and at that time we had all rights to water, land, and minerals. And through the years it's been dwindling away. And we're still under the belief that we still own all our water rights, our minerals, and land; but through

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compacts and through treaty, we know we have all these rights still inherent to the tribe. But, now, to this day, we have a compact with the State of Montana which was ratified with the State in 1985. Under that compact we have a million-acre feet of water out of the Missouri River, and ground water.

And out of one of those stipulations in the compact we were able to secure 50,000-acre feet to be marketed off reservation. That hasn't materialized yet.

And I think one of the biggest concerns from the Tribal Council was that we make an issue with our water rights and with the alternatives that are being proposed, and we would like to see that incorporated into the document here.

Tribal 10, 12

I see one of our other people came in. I think she needs to fill out one of those cards. And I think she might be giving testimony too.

Also we had -- as part of the consultation, we want to cover a lot of issues with the Corps, ranging from cultural rights to cultural sites. We have done some

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study on it but we need to study it a little further.

And I think the other issue was pipeline. We need to discuss the 404 permit off the streams, wetlands on the reservation.

And I know from some of the tribes in South Dakota a big issue arises when we find human remains or skeletal remains or dinosaurs, whatever, who has the ownership of it. And we believe that the ownership is the Fort Peck Tribes. And I would sure hate to see any confrontation between the Corps and the Tribes when it comes to ownership, Because I know in South Dakota this has happened -- and it's kind of a situation for both parties -- and would like to have a win-win situation for both parties.

CR 31

I know we sent some correspondence to the Corps requesting information on different aspects, like total sediment.

COL KURT F. UBBELOHDE: Pardon. Repeat that, please.

TOM ESCAISEGA: Total sediment. And with the many tests being proposed with

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the full tests, who is going to be responsible for the intakes, the damages. And we ask that the Corps identify that for us.

And from what I understand, it's still under the Corps' investigation, I guess, for future reference. But we still contend that it's the Corps' responsibility.

ErSd - 5

And one of the other issues that was in our compact, I know we have stored water rights behind the Fort Peck Dam. And I think at one time I had asked Mr. Dave Vader, when he was with the Corps, to research that for us, how much of that stored water behind the dam that we have access to.

Tribal 12

Now, please, when you do these tests, there are many tests, don't say that's the Fort Peck Tribes' water you guys are releasing.

COL KURT F. UBBELOHDE: (Laughter.) All right.

TOM ESCAISEGA: (Laughter.) And I think at one point when we first started this M.R.&I. project, we asked the

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Corps about putting the intake into the lake and also into the dam. But at that time we talked to Mr. Bill Miller, and we had Mr. Date, who did some renovation with the dam, put that in there. Then he went away and referred us to some people. And that never materialized. And we thought about originally putting the intake right there in the dredge cuts below the dam, but that didn't materialize because Fort Peck doesn't have any land out here.

Other 265

So we moved it onto the reservation. And we've wanted to identify a spot there for the intake. I think we have three sites identified now. I think one of the biggest ownerships, the intake will be on tribal land.

And we would like to indulge the Corps to help us stabilize the banks around the intake if that's possible. I know that's one of the items we asked the Corps to help identify for the Fort Peck Tribes to develop.

ErSd - 6

But from my perspective, being a manager of our directive program, it's

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always through the non-Indians that are not tribal Indians that get the benefits of the Corps programs and somehow we would like to see that switched around.

I know in the consultation coming up, maybe that's a start. And it might be beneficial to the Fort Peck Tribes with the Corps help. But I know in the past the Tribes and Corps didn't really see eye to eye.

And one of the other things was the Biological Opinion from the U. S. Fish & Wildlife and also the Corps saying that: When we put our intake in, it was for the pallid sturgeon. Then the last thing that came in was the tern and the piping plover on there.

And some of the comments made by the council people was that: How can we put the animals above the life of the individual, or the tribal members, if we want to give them good water. This comes into a big play, I guess.

EnSp 28

I guess what I understand is that you and Fish & Wildlife has the authority to

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stop the project. And we did have the meeting with the U.S. Fish & Wildlife people; and they said it wasn't really a big item on their agenda, and would get it pretty much through. But then I don't know how the Corps fits in there with U. S. Fish & Wildlife. I guess what we're asking here is the Corps to give us some kind of answer back, how the U.S. Fish & Wildlife tells the Corps what to do or what.

Other 266

But the other things that are coming up, I think, through the consultation, I know we asked Mr. Bill Miller to be here to identify the full test and mini test. And we had a conversation back before we started that it probably wouldn't happen this year because of our kind of a drought situation that we're in and the dam not being up to speed or storage up there.

And I'll say again, if you release that water, don't say it's the Fort Peck Tribes' portion. I know we had a compact with the Corps that we had a traditional resources cultural inventory. And some of the things we encountered was from the

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landownership from the non-Indians or fee land. We went to them and asked them to sign it. They said, "Well, who are you doing it for?" We say the Corps, and they'll tell us no, flat out.

But we still go back and bombard them with a, "Yes, you can do that. It will be beneficial to this investigation from the Corps and also help us in the M.R & I project."

I guess we go up to get the consent to enter their land so we can give them water. It will be beneficial both ways. That's what we're trying to find out. And so far we have completed the reservation part of the Corps on that part, but on the south side of the river which is primarily off the reservation, we have about 85 percent of that completed for consent forms over there.

Tribal 23

But I don't know what you guys did to the people over there in that fee land, but they do not like the Corps for some reason.

I'm trying to help you. I think from us trying to help you guys you should give

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us about a million dollars to kind of smooth out the problems. (Laughter.)

COL KURT F. UBBELOHDE: A finder's fee?

TOM ESCAISEGA: Yeah.

I think that's about all I have. I'll ask Mr. Mike Watson to come up. I think he'll handle the technical aspect of the project. Then Joe Elliot. Then I think probably after that Deb Madison who is the director of the BOP.

COL KURT F. UBBELOHDE: Okay.

MIKE WATSON: Thank you, Tom.

My name is Mike Watson and I'm representing the Fort Peck Assiniboine and Sioux Tribes this morning as their engineer on the rural water project that Mr. Escaisega is the director, as well as other matters related to the river.

The Tribes' reservation is bounded on the south by the Missouri River below Fort Peck Dam over a distance of 141 miles, between River Miles 1621 and 1762. Therefore, the interest of the Tribes in this matter is significant.

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Approximately 75 percent of the north bank or the left bank of the Missouri River between the dam and the backwaters of Lake Sakakawea near the border with North Dakota lies within the reservation in the reach to be affected by the testing and future operations to generate a spring rise.

Tribal 23

The tribes have communicated with the Corps of Engineers on this subject on several occasions, and we would request that as part of our testimony this morning that the Corps reexamine that correspondence, some to Becky Latka and some to the Northwest Division.

Hydro 12

There has been some confusion on our part with regard to where this communication should go. Mr. Miller, who is here this morning, has been working on the mini tests and the full tests. And we're also concerned about the entire scope of the operation of the Missouri River that is part of the Master Manual update, and there has been some jurisdictional gray area between Mr. Miller's efforts and those staff that are working on the Master Manual in general.

20

Hydro 12 (con't)

So we want to make sure that the correspondence that we filed previously is examined by the right parties within the Corps.

Now, the concerns that the Tribes have had have been fairly well documented in this correspondence. As Mr. Escaisega points out, the Tribes as the beneficiaries of Public Law 106-382, the Fort Peck Reservation Rural Water Act of 2000, executed on October 27, 2000, which provides for the diversion of the Missouri River at an intake near Poplar. And this will serve a large area of Northeastern Montana. And we can provide maps that show the full scope of this project.

But it involves all of the Fort Peck Indian Reservation and four counties outside the reservation, and reliance will be placed on the intake and water treatment plant that will divert water from the Missouri River.

The Tribes have asked that the Corps provide a plan for the protection of the intake site including facilities in the floodplain of the Missouri River and a plan

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for mitigation or replacement of facilities stemming from the full tests and any proposed change in the operating procedures at Fort Peck Dam.

So there is concern about the intake on this facility, and the Tribes have asked for the Corps to provide a plan for the protection of the intake.

The plan must address a mechanism for financial repairs and replacement of the intake and related facilities through funds available through the Corps of Engineers or federal entities other than the entity established for the operation, maintenance, and replacement of the water system.

Tribal 45

The Tribes have asked that the Corps provide a plan for funding the additional costs of treating Missouri River water to remove enhanced levels of suspended sediments at the water treatment plant for this project.

Tribal 45

The Tribes have asked for a plan for protection, mitigation, replacement, funding of existing intake other than municipal water systems irrigating project and other

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intakes that the Tribes have or will have within the boundaries.

The Tribes are also considering the diversion of the Missouri River water for a new irrigation project and that irrigation project would irrigate between 10 and 20 thousand acres. And there is concern about how the future operation of the river would impact that intake.

Other 82, 83

The Tribes have asked that the Corps provide an analysis of the impact of the mini tests, full tests and any future operational changes at Fort Peck Dam on the erosion of the north or left bank of the Missouri River across the reservation.

The Tribes have asked that the analysis include the impact of future operations on the mechanisms of accretion and avulsion and the impact of future operations on changes in ownership that may be caused by movement of the banks or channels of the Missouri River. The analysis should also include the impact of future operations of the elevation of the bed of the River as a result of aggradation

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or degradation.

Now, this comes from knowledge of the history of the degradation between the dam and Wolf Point and from there down stream the history of aggradation and its consequences.

The Tribes have asked that the Corps provide maps of the Missouri River Valley between the east and the west boundaries of the Fort Peck Indian Reservation outlining the soil types, geologic anomalies and any other factors that will permit definition of areas more susceptible to erosion and areas less susceptible to erosion. The Tribes have asked that that analysis must provide conclusions with respect to means of compensating landowners within the Fort Peck Indian Reservation for loss of land whether those landowners are the Tribes, allottees, or private owners.

Tribal 45

The Tribes have asked that the Corps provide a plan for review by the governing body, a plan that would provide for safety during testing and future operations. This plan should include, among other things, the

Tribal 45

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methods of notification and warning before and during testing or operating procedures to artificially produce a spring rise. The plan should acknowledge and address warning and safety procedures for cultural and spiritual ceremonies, recreation, landowners, wood gathers, hunters, fishermen and others that would normally occupy the river, its banks, and its floodplain.

The plan should address the potential for rainfall and snow melt events in the Missouri River above Fort Peck Dam, such as the 1948, 1952, and 1964 events, and a loss of flood control capability due to revised operational procedures to maintain reservoir levels at or near spillway elevations in the May-June period in order to accomplish the release of water from the spillway for an enhanced spring rise. The plan should address any known concerns with regards to the capability of the spillway to perform during the mini test, the full test, or during future operations.

The Tribes have requested that the Corps provide a plan for review by the

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governing body for the protection of human remains, cultural, historical and archeological resources known to exist in the Missouri River Valley and that may in the future be exposed by testing and/or future operating procedures.

CR 26

The Tribes have asked that the Corps clearly present a report to the governing body on the benefits to the Tribes, their lands, and their resources of the proposed revisions in operations of Fort Peck Dam. The Tribes ask that the report address economic, environmental and cultural benefits. The report must also address the impact of the mini test, full test and any future operational changes on aquatic habitat, riparian habitat with special attention on our cottonwood forest, endangered or threatened species, and upon species that are not threatened or endangered.

Tribal 45, 46

Moreover, the report must address the impact of changes in the operation of Fort Peck Dam on hydropower resources of the Eastern Division of Pick-Sloan particularly

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Tribal (con't) 44

on the resource pool from which the Fort Peck Assiniboine and Sioux Tribes will receive federal power starting on January 1, 2001, and continuing for the next 20 years.

The report is requested to include an assessment of the financial impact of operational changes on the Tribes' hydropower allocation as well as the financial impact on the Tribes from any other positive or negative changes.

Tribal 45

And finally the Tribes request the Corps prepare and present a detailed plan to establish field baseline conditions and thereafter to monitor changes in the field to the river banks, the river bed, suspended sediments, bed load, aquatic habitat, riparian habitat, and other resources and facilities. They've requested that this plan should describe how changes caused by revised operating procedures will be determined relative to historic operating procedures and how those determinations or marginal changes will be used to define damages, mitigation requirements and compensation.

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The Tribes have gone forward with some investigation to determine the impact of proposed operating procedures on suspended sediment and those investigations have concluded that there would be a 7 percent increase in suspended sediment with a change in flows from the historic pattern to the proposed pattern with the spring rise.

ErSd - 41

This is a significant concern and interrelates with aggradation, degradation, bank erosion, riparian habitat and other resources. The Tribes have shared this knowledge with the Corps of Engineers but have not received any response with regard to that analysis.

This concludes my comments. We will be happy to provide anything in writing to further assist in the understanding.

JOE ELLIOTT: My name is Joe Elliott. I'm from Missoula, Montana. I'm a consultant to the Fort Peck Assiniboine and Sioux Tribes. And I just have a question.

Other 266

Will the Fish & Wildlife report be prepared for the revised operations of the

28

system? And if not, why not? Thank you.

COL KURT F. UBBELOHDE: Are there any others who wish to make a statement.

DEB MADISON: Yes.

COL KURT F. UBBELOHDE: This is being done in a formal testimony way, so you come to the podium, state your name, who you are, etc., and we'll do that.

DEB MADISON: Okay. I'm going to submit comments later on through the Tribes.

COL KURT F. UBBELOHDE: That's perfectly all right.

DEB MADISON: All right. Let me give you this then. My name is Deb Madison. I'm the environmental program manager for the Fort Peck Tribes.

And a couple things on the Master Manual, Adaptive Management. I think that is a terrific idea. We're working cooperatively right now with the State of Montana on a number of issues. And I know the State of Montana is also interested in adaptive management.

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I would propose, though, that results of the adaptive management, when we're talking about bringing together, you know, high level science in the basin to come and do large river ecology, I would propose that there be separate breakout sessions, though, for the Tribes, Fish & Game Department, Water Resource Department, Environmental Protection, simply because I think in a purely Tribal -- through a Corps setting and a Tribal setting it's much better than if we bring in other interests. It will give the Tribes a much more, I would say, higher level of comfort that we would feel more free to ask questions, questioning the results, and learn from that experience than if we're mixed together with a lot of state agencies, environmental advocacy groups and that type of setting. I think in the spirit of government consultation that would be a good first step.

Other 10, 267

And also in terms of those Basin work groups, the State of Montana met with us last week and are very interested in putting together a Montana-Missouri River Basin

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group to bring together these same kinds of professionals that exist within this part of Montana and, you know, to the head waters as well.

And I think that's a really good idea. And I know they're going to be proposing that, and we would suppose that effort.

Other 7, 267

And once again, we would like to see that in terms of either figuring out a way to fund it, you know, through congressional authorization, or other agencies. Because I think the Corps has done a good job of putting together a lot of information already and providing it in a format. You've got the contacts, you've got the documents, you've got a lot of the issues in the Basin examined and reexamined. I think this is really good to keep you in that mode, sort of being the team leader, so to speak, on that particular issue.

COL KURT F. UBBELOHDE: If I could ask for clarification. Is it a state basin ----

DEB MADISON: Yes.

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COL KURT F. UBBELOHDE: --- organization that you're asking for the Corps to kind of take a leadership role over?

DEB MADISON: To help support, yes.

COL KURT F. UBBELOHDE: The Corps?

DEB MADISON: Yes. We'll probably be looking for that kind of issue.

ErSd - 40

Let's see. What else can I think of? Winter flows. We've done a lot of research up here -- not a lot -- the last three years on ice flows and erosion from ice. And there's beginning to be some results that point to ice being more of a problem than increased spring flow. And we're looking at a number of around 90,000 CSF maximum release during the winter months out of Fort Peck Dam as a way to possibly minimize the effect of ice flows over the winter.

Because what can happen when that ice moves out, then you have trouble with sandbars, pumps suddenly moved a quarter

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mile away from where they were before, and the open water channel and all that sort of thing.

WQ 15

Okay. The water quality section of the analysis section of the RDEIS from August 2001, I felt, was a little bit short of information, specifically about metals. I think we need to take a really hard look at the impact of metals.

Right now specifically mercury and arsenic, we're working with the State of Montana on a TMDL, and starting that process hopefully this summer for intensive monitoring, this summer on the Missouri River. And I think the Corps needs to examine some of -- I know they have some really good data available on it -- help us get a handle on how much is actually coming from the Fort Peck Dam, and some options like how does hydro modification affect those levels, specifically.

And that has impact to our water supply as well, because when we talk about putting in a large intake system, obviously we're going to have to know what we can

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expect in terms of mercury and arsenic.

Let's see. Also there was a little bit of discussion earlier about stop criteria on the spring rise. We're not as concerned about the Yellowstone River, although the State of Montana is quite concerned about the Yellowstone River and flood levels there and initiating some stop criteria at that point. I think that's something that needs to be negotiated, and I'm sure you are going to look at it as part of the spring rise. Many tests -- That isn't going to happen for awhile, it doesn't look like, at least not here. So I still think that's something that needs to be flushed out a little further, especially when we're looking at cultural and historical sites and inventory that's soon to be completed along this stretch of the Missouri River.

CR 17

Finally -- I guess not finally -- But what I want to talk about right now is the hydropower section of the manual. I had a little trouble understanding that part exactly. I did talk to our utilities

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director this morning, who has been intricately involved with Western Power Administration and getting WAPA Power to the Sioux Tribes. At this point we are about -- 90 percent of our power comes from MDU, which is only about 25 percent relying on WAPA Power.

So actually the impact to those 90 percent is relatively small, at least from what I can figure out from the manual section. The other part of the reservation, 10 percent is on the rural electric cooperatives. One of the cooperatives, I believe, is 100 percent relying on WAPA Power. And those folks could see some issues with their power bills.

HPower 2, 11, 12, 18

And I guess out of all of that, I'm trying to figure out, although the manual had no direct impact to tribes for hydropower, I think there are some impacts there and we need to flush those out a little better in the review process, just so it's easier maybe to look at a graph or a chart or something.

And I think we have people available

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to help with that. They've already done a lot of the leg work that needs to happen.

Finally, I guess, from our office's prospective, we are pushing pretty heavily. And I don't want to go on the record as being firm on this, but we are looking very hard on pushing pretty heavily on it. It seems to fit a lot of the criteria, the priorities of the Tribes, in terms of water supply, recreation, and at the same time makes efforts to protect the endangered species. I don't think the Tribes are opposed to that, but they want to make sure that individual tribal members and overall tribal interest is protected. And I think that GP1528 option is very close to meeting that.

But I, you know, I wouldn't cast that in stone until we get a letter from the chairman, which should be coming by the end of the month. And we've got some other folks looking at that.

It was interesting to note in the manual that the Corps thinks that's a good starting point. And I think -- I wish in

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light of NEPA that the Corps had selected preferred alternatives. It would have made my job easier and I would feel a little more, I guess, comfortable making a recommendation on behalf of the Tribes.

And I'll conclude right there, if that's okay.

COL KURT F. UBBELOHDE: Okay. Thank you.

All right. With respect to the testimony to the Manual, Master Manual, are there any others who wish to make a statement?

Part of our purpose for coming up today, of course, is to pursue government -to-government talks, so I'd like to sort of transform the discussion from specific testimony regarding the Master Manual into addressing and carrying on a dialog to address some of the concerns of the Tribes as put forth in some of the statements you've already made as well as some of the documents that have been referred to in the mailings, etc.

But in order to do that, let me just

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close out officially the testimony for the Master Manual.

This will remain on the record for purposes of just having a good transcript of what occurs here.

Since I'm relatively new to this process, having been in the Omaha District for just, oh, around six months -- and this is certainly an important process, I don't want to get off on the wrong foot or anything -- so I'm going to ask if there's a specific question that we should dialog over first to kind of -- if there's something of a higher priority or something so I don't come in at the wrong level from your prospective, Tom, is there something specifically? My goal is to try and address everything, but if there is a particular thing that we should start with from your prospective, let's do that.

TOM ESCAISEGA: I think we requested information from the Corps on stuff said to them earlier but we haven't had an official response to it from them. I understand the response is to a different

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agency in your department from the Tribes perspective, and we haven't received anything on that.

COL KURT F. UBBELOHDE: Okay. We have an organization that is divided, as I think you probably know. The Northwestern Division, which is commanded by Brigadier General Fastabend headquartered out of Portland, Oregon, serves as a regional command for things going on in the Missouri Basin.

Subordinate to the Division is the District or the Omaha District being one, Kansas City, etc.

So I served as a subordinate commander with focus over portions of the entire basin. And there are other commanders that have other pieces and other responsibilities. And we attempt to serve our stakeholders in a virtual way.

So what you're commenting on is that when you sent a letter to the Corps, it may be that it's coming to the District, because we have responsibility of maybe something that has to be handled by the Division

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because of their responsibilities and the roles that they play. And so we're not doing a very credible job right now serving your needs in a virtual way.

To focus on a specific piece of -- specific request, I think we can answer some of the requests that you made to us in letters by, I think, probably having Bill come up and talk about the things that we're doing with respect to the mini and the full tests. Because that will discuss some of the various actions that are ongoing, which you have asked for plans on. And we are working those things in a matrix way, working with the Division, as well as at the district level. And hopefully by presenting some of this information we can sort of address those concerns.

And if we don't do it adequately through this dialog, we'll find out where the gaps are and we can try and get some sort of an idea of where we need to do a better job of communicating.

So why don't we have Bill come up and talk a little bit about some of those.

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BILL MILLER: Tom, what I first want to do is address your request for plans. And I'm talking from the March 19, 2001, list. Most of the lists are separate. I think the list that you quoted today, there are several versions of this list. It may have a few additional things that I haven't addressed on this one, but this is a list I will talk from.

The first issue we would want to address is the plan for protection of the regional MRI intake site and related facilities in the floodplain, including a plan for the repair and/or replacement of those facilities if damaged by future operations connected with a spring rise or otherwise.

The plan that we address, it addresses the actual intake. And as I talked before, to fully address this, we are making -- we are envisioning an intake similar to other industrial water intakes, but it's just in the process. Those documents, you know, don't exist at this time. So we're operating at that level.

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And operating from that level, we have not foreseen damages from the mini tests. And that is what I'm addressing mainly. Nor do we feel that there would be damage anticipated in the full tests or implementation, you know, based on what we know now.

The next item that we want to address is the plan for the funding of additional water treatment plans associated with the enhanced levels of solids caused by the spring rise.

This kind of falls, both these questions -- and when I address what we're doing, at this point in time, we're gathering data, getting information, as far as having a plan, we're getting towards that point where you have to have a certain amount of information to be in a position to develop a plan. Related to these two things, they kind of tie into your suspended sediment, you know, proposal that we have received and we are reviewing.

And at this time we have done, in the last couple months, we have furthered out

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research into that and have got our analysis to such a point that we are going to present it to the Project Review Board for the implementation regarding the BiOp and the process.

COL KURT F. UBBELOHDE: Again let me interject. This is again part of the hierarchal structure which exist in the Corps. What he's referring to is the district has responsibility for a portion, the division, the Project Review Board, as a higher level organization, which has responsibility for a much broader spectrum of issues.

And so this fits into their big picture, and they're the ones that will have a determination. So that's what he's referring to, the process right now.

BILL MILLER: Thank you, sir.

And we have -- Jody Farhat is here with provisions, and also Mr. Moore. And I am going to, with your permission, address these in total; but I want to stress that the mini tests, with the movement of the full tests under the umbrella of the RDEIS

for the Master Manual, I no longer manage that. I'm still doing the technical activities, you know, the testing of the spillway, the coordination of the Tribes for, you know, the cultural resources. I'm forming more tasks now for the division. But the management of it is with the Division. And also management and the comments on the stock protocol, I'm in the same function. I may provide footwork for that, gather that for them; but they are the ones that would speak to those two issues. I will address them together.

And, Jody, any time you feel you want to add something, jump right in.

Moving on to the next item on the list is the plan for protection, mitigation, replacement, and associated financing of existing intake sites along the Missouri River within the Fort Peck Indian Reservation for the Fort Peck Irrigation Project and other private intakes and newly proposed intakes.

As the Tribe is aware of, because they were part of the process, we have

contracted with the Roosevelt County Natural Resource Commission for this study, for study of the intakes along the whole reach of the Missouri River in Montana. And that study has been completed. We have not received our final copy.

We have received drafts of the summary. And some of our technical staff have received the internal stuff. Becky Latka has looked at it and put together her environmental assessment, but I have not seen or reviewed the final report.

But we have collected that data and also addressed the tribal intakes, as well as all intakes in Montana.

Also as a part of that, we are -- we will do, as a part of the mini tests and as a part of the full tests, we will refine the weather profiles for the river. To do that, we have to have a stabilized flow.

There was discussion among the communities about doing it this summer, but it would have caused us about seven-tenths of water out of the lake that was already depleted. It was a joint State-Corps

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1 decision it was best to wait and do it as
2 part of a mini test.
3 And so we will make that
4 determination at the 15,000 level. And
5 then, once again, if we do the full test, we
6 would make it 23,000 CFS level and establish
7 new after profiles. The water profiles
8 we're currently using are reasonable for
9 estimates, but they were prior to the 1997
10 event, which quite possibly made some
11 changes to the dynamics of the river, which
12 may not make them as accurate as they were
13 at one time.
14 So that, coupled with the data that's
15 available from the Roosevelt County survey
16 should provide reasonable information.
17 The next item is analysis of the
18 impact of future operations on erosion of
19 the north bank, including maps (GIS) of the
20 Missouri River Valley outlining soil types,
21 geologic anomalies and other factors
22 relevant to erosion.
23 At this time we have added three
24 additional erosion monitoring sites with new
25 mechanisms that geotechnical people

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1 purchased about a year and a half ago.
2 On one of our first sets of scoping
3 meetings on the mini tests and full tests we
4 asked for volunteers because we had to have
5 permission to put them in people's sites.
6 And three volunteers came forward that had
7 active erosion sites, and that's where they
8 are located now.
9 This is in addition to our normal
10 erosion monitoring that occurs just at the
11 sedimentation monitoring lines. At certain
12 periodic times they're resurveyed, and we
13 also have aerial photos flown of the river
14 that compares over a series of years which
15 monitor the erosion rates.
16 It is still the Corps' position that
17 overall the mini tests, the full tests, and
18 the implementation taken as a whole will not
19 affect the erosion rates over a long period
20 of time.
21 But because there's still some
22 concern among the Tribes and the public,
23 we've went ahead and added these additional
24 erosion sites.
25 The other thing ----

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COL KURT F. UBBELOHDE: Monitoring sites?

BILL MILLER: Monitoring sites, yes. Thank you, sir.

The other thing that has taken place -- we work jointly as a part of this -- is the NRCS with their ag research center has performed some independent soil stability type of tests in conjunction with the same place that the Corps has sites and tests and has compiled a report that they have provided to your CRM group. And the Tribes have tribal interests represented in that association.

In addition to that, as was mentioned in earlier testimony, the Corps under Section 33 has sponsored an ice study that did a very detailed look at the operations of the river under while it was covered with ice. And that report has been brief. We have not put out a report. Our overall plan was to do several years of monitoring to develop a profile.

We have one year of data, and we would have liked to have more data before we

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came to, you know, a concrete conclusion of what it is. But the representation of the preliminary data was accurate.

The next item is the plan for compensation of landowners for erosion. At this time, the best mechanism that is available for landowners to address erosion is the Section 33 program.

One of the mechanisms is for the landowners, if they are willing, they can get a slough easement where the Corps would provide payment for an easement to let the land that was eroding continue to erode.

There is possibility that certain criteria can be met for the four-banks stabilization project to be built. One was built, I believe at the Pipal site here in -- not far from here in Montana. Another site is being considered across from the -- directly across from the spillway at this time.

COL KURT F. UBBELOHDE: Let me just make a point of clarification.

That particular determination, again to show you the hierarchy of the

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organization, resides outside of the Corps of Engineers. It's at the Secretary of the Army Level, and it's done on a not economically justifiable basis.

So where we would be restrained to pursuing actions that are economically supportable, that sort of decision would be one that would be handled well above our rank and pay structure and is not -- It's for completely different sorts of reasons, so there's different motivation for a structural report.

DEB MADISON: Construction in the river intakes. So you think that somehow that base stabilization with prior tests for that area is kind of where this is going to head to, or not?

BILL MILLER: It's a separate program. It's a whole separate thing. I had managed that program one time. I think it's got a very set criteria. And up till now several people applied, and there's only been three structures built under that program at this time. So it has to be a very unique set of conditions for this to

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occur.

COL KURT F. UBBELOHDE: Do you have anything to add on that, Alan? Do you have any prospective on that at all?

ALAN STEINLEY: No.

BILL MILLER: I'm not currently managing that project, but it is my belief that the consideration for the site as it falls from the spillway was based on a provision that allows you to relocate your water intake. In other words, we would relocate water intakes. If there's two water intakes that are close together, one stable, one not, and if a willing neighbor has a site he's willing to give easement, we would try to relocate the site so both pumps were at the stable site.

In that process if it's cheaper for us to actually do a structure and we can get the permits than to relocate it, then we would possibly build some limited rock structure. But once again, those are very -- the situation has to exist for those to be supported. It usually does not occur, and then we still have to get permits.

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DEB MADISON: I guess the reason, when that first started that whole CRM thing, the issue was actually not just intakes. And now I think they can see even those type of structures aren't going to help the situation, so they're starting to concentrate more on just what you need to do.

So I guess I'm just -- They're starting to point their efforts. I don't think that's what they're asking: How can we stabilize at least the pumping sites because they have such a direct impact?

BILL MILLER: I think you hit on it. Hopefully when we get the information from the study that Roosevelt County has done -- We received it, but I don't believe we've had a chance to analyze it. And we need to couple that actually with the new water profiles. The data we've had we need to be able to match up where the water is going to be at based on the best estimate they can with the data that's available to them.

And I think the mini tests will tell

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us a lot. The mini test is basically no more than 15,000. It's at the upper level, but it is a type of flow that would be in the normal operation range. And I do not believe that it is as big a concern to the Tribes or the landowners. And once we run that mini tests, then I think a lot of these other questions will fall into place.

Do you want me to continue on, sir?

COL KURT F. UBBELOHDE: Sure.

BILL MILLER: Plan for safety during the testing and future operations, including assessment of the spill to perform properly.

We have -- As a part of our operations, one of our tasks was to develop a safety plan as a part of our overall testing plan. And a draft of that has been put together.

Given that, we are probably at a 25 -- 15 percent chance of the test being implemented this year. We're still moving forward in the event that the water conditions will change that we could run a mini test.

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A draft is existing, but it is not being pushed at this time, given the probabilities. If things start to change, we can finalize that document in a short period of time. It addresses the type of issues that you're concerned with.

Regarding the spillway as a part of previous contracts, we've already completed -- with an engineering consultant, we have developed an overall plan for monitoring the spillway to use in the mini test and the full test flows regarding the erosion around the structure. And slab uplift and instrumentation has already been installed. Later this year, we will execute another contract with the same consultant to do some preliminary work. And so they're in line to actually do the testing during the full testing analysis.

The next item is the plan for protection of human remains, cultural, historical, and archaeological resources.

As you're well aware, the Tribe has -- we award the contract to the Tribe to do the cultural resource work on both sides

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of the river from Port Peck to the government boundary. And as it was previously briefed in the earlier testimony ----

(Brief interruption.)

BILL MILLER: I'll start over. Obviously the Tribe has a contract for the cultural resource inventory, and they also have the contract for some preliminary work we did on cottonwood surveys inventory. The contract is moving along. As Tom earlier briefed, the Tribes and the Corps have some landowners that are reluctant to give permission for the inner-land survey.

Discounting those areas, when the survey is completed, I anticipate sometime in the May-June timeframe, we will have hard data on the location of the cultural sites.

What we are anticipating is having some sort of monitoring program, say, if there are significant sites, you know, during the full tests. And once again those from the Division that are here, speak up if you don't agree, to insure that, you know, if there are significant sites that are

close, that we do not have impact to those sites.

It must be noted, at the current time we don't expect erosion rates being different than they are now. At this time we are not -- we don't know of any known occurrences. There's no known immediate problem sites. And erosion, if it stays at the current rate, doesn't seem to be causing a problem. So we wouldn't anticipate any difference during the mini tests or full tests.

If we would get water, we would probably propose to move forward with the mini test based on our current existing knowledge and monitoring plan.

The next item is the plan for baseline measurements and future monitoring of resources including water quality, total sediments, aquatic habitat, riparian habitat and other resources.

Yes, Tom.

TOM ESCAISEGA: Can you back up to that last one?

BILL MILLER: Yes.

TOM ESCAISEGA: On the cottonwood study, now we completed that?

BILL MILLER: Correct.

TOM ESCAISEGA: Can we expect some comments back from the Corps on that or do we have to wait until the whole project is completed, until like May or June?

BILL MILLER: I'll check on that. A lot of times we wait until the whole project -- in fact, if you haven't heard a comment, it's probably a good thing. We're probably happy with the work. But I'll check on that.

TOM ESCAISEGA: Okay.

BILL MILLER: We are still debating that within the Corps technical family.

DEB MADISON: We can expect some sort of response?

BILL MILLER: After we presented -- Portions of that debate would be presented to the review group that I mentioned earlier, and they would, they're responses to the different analysis that we performed would lend towards whatever the

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response is.

DEB MADISON: Okay.

BILL MILLER: Ready to move on?

DEB MADISON: Yes.

BILL MILLER: Once again, the Tribes have been a part of all this, so this isn't new thing I'm telling you. We have a very aggressive, I think, detailed monitoring plan for the biological responses that we completed last year, and we would do this year. It would be done -- All the base years until we do the mini tests, during the mini tests, during the full test, during implementation then a year after is our base plan.

And we're collecting the type of information on water quality, on temperature, a limited amount of humidity. We are collecting a multitude of information on the movement and the habit of the fish and the pallid. And that is a part of our monitoring plan. We also have completed the cottonwood study.

Now, it goes back to the information that we have at hand that erosion will not

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increase at a rate other than normal as far as the effect of the mini test and the full test, that there is -- other than the work that you have done, we consider that kind of our monitoring plan. There is no other additional monitoring that we see that would occur actually during the tests, as far as what would happen to this data. And when you talk in terms of baseline, data collected over a year is not a baseline. That's probably the next phase.

I would like to get together with Deb, talk to you after the meeting. I believe the Tribes have a previous long history of water temperature, water quality data, and we'd like to talk with you, if we could, to try to make some sort of connection match up to our data and use that to extend the baseline.

And so we go to the Tribes which probably have some of the best data and some other agencies and see if we can use that data to develop the baseline.

And once again, the sediment portion of this, your monitoring plan would be tied

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to, you know, the comment that we receive from our senior review group.

The last item that I have on this list is the analysis and presentation of benefits of spring rise to Fort Peck Assiniboine and Sioux Tribes.

But the main benefit, I think the Tribes have had a long history of being concerned for the environment. And I believe that this whole process will improve the river habitat and especially the habitat and the chances of survival of the pallid sturgeon.

In addition to that, this process has made it possible for us to do a complete cultural resource survey of the river, which I think was another -- There's a lot of interest groups that that is a benefit to, but I think the Tribes have a primary interest in that particular action occurring, and the information being available has benefited the Tribes.

Even though our initial start is limited, the cottonwood survey work is of benefit to the Tribes. And even though it's

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a secondhand benefit because it was for the benefit of the Corps to take the contract, there has been some contractual work that has provided income into the tribal community based on this process.

And the last abstract benefit is that both the mini and the full tests will provide a bank of data. In other words, adaptive management is based on having data seen, what happens there.

If you, in a part of the process, have some confidence in the data and you had data, then you can anticipate in the adaptive management process.

Those are all the comments I have. Were there any others you wanted to address, Tom, on this list?

TOM ESCAISEGA: One of the things that we're thinking is, what we need is a response in writing on this so we understand where we are. And we understand you're not totally complete with all the things that you're doing, but if you could respond to the things that you can respond to and give us a status report on your

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projection when that will be finished, I think that would go a long ways in answering the questions that the Tribes will have posed in their correspondence.

And that would be very helpful to the Tribes in being able to evaluate what your plans are. Without that we really don't have much to work with. We've got the correspondence out there asking for those plans.

With regard to the baseline data collection, again, the oral statement given that there has been significant progress on some of the things in the report, aerial topography of the river to establish where the banks are, your cross sections of every mile that you maintain and update, that gives a good handle of where the river is at any particular point in time and where the bed is, X, Y, and Z coordinates, we're talking about the lateral position of the river and the vertical position of the bed, that gives a lot of good information.

So far we haven't seen that. We'd like to see it so that we can understand

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what the baseline looks like and then can work from there. We've got a lot of information of baseline from USGS. We just need to figure out how we're going to supplement that during the testing so we can fill out the points where USGS is collected data.

So I think all I'm trying to say is, it would be very helpful to get all the things that Bill has said very well in a written response so that we can evaluate it. And I don't think the Tribal Council or Deb are asking for things that we can't have yet because they're not finished. We just need to know what you can say about the things you have and what you can say about the things that are in process.

BILL MILLER: I can do that, sir.

COL KURT F. UBBELOHDE: I think that's a very prudent thing to do. It also allows us to gauge, I think, anticipate a completion time. And we can kind of gauge when things need to be completed, etc.

I don't know if we've got the record.

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It would be sort of a comprehensive document then addressing each of the points. Because I know Mr. Elliott had asked about the cottonwood study and expecting a response on that. And that seems appropriate. We've got the document. We should be doing the review, the response back what it means, etc., from our prospective, to roll all those together in one comprehensive thing for the Tribal Council to look at.

Then you would be able to determine whether you're satisfied, etc. That would be appropriate.

Okay. Any other directions for us, comments?

JOE ELLIOTT: I think from my standpoint, I'd like to see an organizational chart of you guys. You know, you're talking about hierarchy. That would help us to send letters.

RICK MOORE: Did you have any concerning the regulatory process? Did you want to discuss them here?

TOM ESCAISEGA: Yes. When we start construction of our intake, which will

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take place probably this fall, we need to know who to go to and get permits and stuff like that.

COL KURT F. UBBELOHDE: Okay.

RICK MOORE: He wants to go there to get a permit, Alan. Come right up in front.

COL KURT F. UBBELOHDE: Introduce yourself, Alan.

ALAN STEINLEY: Hi, I'm Alan Steinley. I work out of Helena. We talked on the phone the other day. And I run the regulatory program here in Montana, and I didn't quite get your question.

TOM ESCAISEGA: I guess we need to know about the permits, who we need to know, who to work through. I'm not too sure.

ALAN STEINLEY: Okay. We've had some contact on that project back in March with the Bureau of Reclamation and DEQ. Are you working with them to put this project together? They informed us that they were taking care of environmental documentation at the state and federal

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level.

TOM ESCAISEGA: Okay. We have the Fort Peck.

ALAN STEINLEY: Okay. So they're only handling the Dry Prairie part. I didn't catch on there. But what I think would probably be the prudent thing to do would be to get together on a pre-application basis probably as soon as possible and lay out the project and then we can discuss different permitting ramifications and what we could do for the process.

It would probably be an involved permit. There will be a lot of issues that have to be dealt with and some of those have been discussed today, railroad, cultural resources, and I assume -- Will the Tribes be handling a lot of those types of issues in review?

TOM ESCAISEGA: Yes.

ALAN STEINLEY: Okay. That will help.

Probably one of the issues that we'll have to look at is how much of this project

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are we going to try to run off of a permit. And I'm not quite sure where you're at in the planning or construction.

One of the things we'll have to determine is: Can we permit the intake separately or are we going to have to look at the permit of the delivery system together.

And I think that's something that we need to do, like I say, pre-application consultation to find out where you're at on this project, where you're at on design. Then we'll probably be able to get you a better answer as to what type of permitting requirements you'll be looking at, and more importantly probably how long it's going to take before we can provide a permit to you.

COL KURT F. UBBELOHDE: To help him understand, what would be some of the restrictions or limitations on that particular matter and time on this issue, just to kind of characterize it for them?

ALAN STEINLEY: Well, determining the scope of the project, like I said, how much the project we're going to

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try to bite off. I think I heard you say you want to start construction in the fall?

TOM ESCAISEGA: Right. The intake.

ALAN STEINLEY: Okay. We'll have to decide how much of the project is available to evaluate, basically, and how much of it -- So we'll have to determine the scope of the project.

And then there will be the typical issues, the endangered species, cultural resources. Those are normally the ones that add length to the process. If we have to go into consultation with Fish & Wildlife, they're kind of a wild card process, as I'm sure you're aware. And it could -- It's out of our control basically how long it takes sometimes.

So as we deal with those types of issues, I would recommend getting started as soon as we can. Because, like I say, we don't really have control on how long some of that takes.

TOM ESCAISEGA: The only thing we'd be interest in permitting is the

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intake.

ALAN STEINLEY: Okay. And that's a decision we'll have to make. When we were talking with the Bureau and DEQ on -- This is quite a network, the pipeline that goes along with this thing, crossing many waters of the United States. And we wouldn't have the pipelines without the intake.

Normally we like to look at the entire scope of the project at one time and evaluate the impact and put out our information to the public for comment, as much of the project as we can. But I understand some of that information isn't going to be available.

TOM ESCAISEGA: We've got everything available. We know the streams we're crossing, where we're crossing. All of the details are going to change, but the general nature, the general scope of the project is not going to change.

ALAN STEINLEY: I think we can work with that. Because when the time comes, if we need to amend the permit to

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recognize the change in the crossing locations, that's not a problem.

JOE ELLIOTT: Well, yeah. We've addressed that in considerable detail. What we've done there, there was individual permits in South Dakota for permits more nation-wide. As this has been going along, we've done a detailed site specific assessment of wetlands before each segment is built. Because when we did our surveys, we weren't sure where the pipes were going to be, so we did a specific site survey before applying for each segment as it was built.

ALAN STEINLEY: Okay. And they're handling some of those?

JOE ELLIOTT: Right. Right. But the main ones you can handle the separate individual permits.

ALAN STEINLEY: Separate individual permits?

JOE ELLIOTT: Yes.

ALAN STEINLEY: Okay.

JOE ELLIOTT: Yes. We've done, you know, quite a bit of field work, but

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it's difficult. From one side of the road to the other, it can be very different when you're looking at wetlands, particularly on the uphill side of the wetlands.

So we can address it adequately for complying, but probably not adequately for, you know, to determine, depending on what your needs are. Sometimes that's adequate for nation-wide permits.

ALAN STEINLEY: Yes.

JOE ELLIOTT: But we have a lot of information which we can provide you, which we probably should do that. I was assuming that the Bureau of Reclamation was keeping you in the loop on this, but that apparently isn't the situation.

ALAN STEINLEY: I haven't spoke to them since March. And our Billings office wants to be the project manager for the 404 program.

JOE ELLIOTT: Should I sent information to you or to him?

ALAN STEINLEY: Send it -- I think for this project, send it to me. Then I'll route it to Larry.

JOE ELLIOTT: Okay. I'll start sending you stuff then.

ALAN STEINLEY: And I talked with the District a little bit, my counterparts down in Omaha. And I think once we get into some of the smaller lines and some of the case-by-case exact locations, we probably have the option of going either way, either individual permits or nation-wide permits.

But we have flexibility on this. But I would encourage you, we should probably get the process rolling as soon as we can. Because an individual permit can take awhile anyway. And then because there are some wild cards that we don't have any control over, I think we should just get -- If we want to meet your construction schedule, we should probably get rolling.

TOM ESCAISEGA: The first train crossing will be 2004. That will be a crossing in Poplar.

ALAN STEINLEY: Okay. I would definitely start consultation on that. Maybe the best thing to do would be to come

back up here, have Larry come up and talk it over on a pre-application basis. And then maybe even get -- see what their needs or requirements are going to be, Fish & Wildlife.

JOE ELLIOTT: Right. We've had Rob getting them involved, but they need to be requested officially for their participation.

ALAN STEINLEY: Okay. Requested by whom?

JOE ELLIOTT: The Bureau of Reclamation. Or in our case, you can do it. You're another government agency, but I'm not a designated representative.

ALAN STEINLEY: Okay.

JOE ELLIOTT: So it's got to be from either you or the Bureau of Reclamation.

ALAN STEINLEY: Okay. So you can negotiate or consult directly with them.

JOE ELLIOTT: Well, we would consult -- We have to be designated as the representative, and we're not at this point.

ALAN STEINLEY: Okay.

JOE ELLIOTT: If the Bureau of Reclamation maintains that themselves, but they haven't made contact to any great extent with the Fish & Wildlife Service.

ALAN STEINLEY: Okay. Maybe you folks can help me. What's the connection of the Bureau to your project?

JOE ELLIOTT: They're the federal lead agency writing the documents.

ALAN STEINLEY: So they are involved in the Fort Peck work, as well?

JOE ELLIOTT: Yes.

ALAN STEINLEY: Okay. Well, in that case, I'm sorry, I thought you were saying earlier that they were not involved in the Fort Peck project. And if they are, then ----

JOE ELLIOTT: No. They're involved in the Fort Peck project.

ALAN STEINLEY: All right.

JOE ELLIOTT: They're the lead federal agency at this point.

ALAN STEINLEY: Good. Then they'll be responsible.

JOE ELLIOTT: I was actually

looking for somebody else that might be able to use a little government leverage to get the Fish & Wildlife Service involved.

ALAN STEINLEY: Yes. And I'd be glad to talk to the folks in Helena about who they would designate or if they're going to need help.

JOE ELLIOTT: They've designated a guy in Billings, but he's so overwhelmed that he can't really handle it. And the guys in Bismarck have volunteered very willingly to participate.

ALAN STEINLEY: Okay.

JOE ELLIOTT: And we've been really pushing for this to get them involved. We've had a lot of trouble getting it moving.

ALAN STEINLEY: Okay. Would you like me to inquire where they're at?

JOE ELLIOTT: Absolutely.

ALAN STEINLEY: Okay. Is there anything else? I'm not sure I answered all your questions.

COL KURT F. UBBELOHDE: Thanks, Alan.

Are there any other issues that we want to discuss further.

TOM ESCAISEGA: No, I guess that's it.

COL KURT F. UBBELOHDE: Just as a way of a recap, then, the Corps, we will pull together as quickly as we can, a response which addresses the various issues. And one of the things ----

DEB MADISON: I have one request.

COL KURT F. UBBELOHDE: Okay.

DEB MADISON: Can we get diagrams through the winter months? We've got it from April through June, but there isn't one in the RDEIS for July through March.

COL KURT F. UBBELOHDE: Flow Diagram 1528 for the winter months.

DEB MADISON: Yes. The release is from the dam, from Fort Peck.

COL KURT F. UBBELOHDE: The release. In the 1528 model.

DEB MADISON: July through March. You have April, May and June.

COL KURT F. UBBELOHDE: Okay.

RICK MOORE: But those releases are only for, what, a three-week period, Jody, the 1528 releases, 15 in the spring -- 15,000?

JODY FARHAT: What are they, monthly releases?

COL KURT F. UBBELOHDE: From Fort Peck.

JODY FARHAT: Releases from Fort Peck Dam, the ones that aren't in there now?

DEB MADISON: Yes.

COL KURT F. UBBELOHDE: Okay. Thank you very much for the opportunity.

(Whereupon, the proceedings were concluded at 1:45 p.m.)

STATE OF MONTANA)
) ss.
COUNTY OF DAWSON)

I, RONALD J. LAPIERRE, a Notary Public of the State of Montana, and official Court Reporter of the Seventh Judicial District of the State of Montana, hereby certify that I reported in machine shorthand the above-entitled hearing and that the transcript herein set forth was done under my supervision and control and is a true and correct transcript of my original shorthand notes to the best of my ability.

I further certify that I am not a relative or employee or counsel or attorney for any of the parties in the foregoing proceeding, or in any way interested in the outcome of the cause.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this ____ day of February 2002.

RONALD J. LAPIERRE
Official Court Reporter
Dawson County Courthouse
P. O. Box 1249
Glendive, Montana 59330
Phone (406) 365-2666

Tribal Comments
Cheyenne River Sioux Tribe
Preservation Office
COE Master Manual

HISTORIC PROPERTIES

The C.R.S.T. Preservation Office has reviewed the United States Army Corp of Engineers Missouri River Master Water Control Manual and prepared the following commentary on behalf of the Cheyenne River Sioux Tribe. Historic properties under National Historic Preservation Act include historic and prehistoric archaeological sites, historic architectural and engineering features and structures and resources of significance to Native Americans and other social or cultural groups. The Master Manual has a property value index for historic sites that reflects an increase or a decrease in value concerning impacts to sites based on water levels. The higher the value the less effect on a historic site. The value index is created upon the number of "known" sites that exist along the lakeshores and then mathematically computing the percentage of site degradation occurring as a result of a water level impact.

The National Historic Preservation Act identifies properties that are included under the term historic properties however NHPA does not include in its definition section any language pertaining to Traditional Cultural Properties (TCP). Traditional Cultural Properties are discussed in NPS Bulletin 38 and this document the Master Manual does not reference. NHPA does make reference to "*Traditional religious and cultural properties*" in section 101(6)(A) but it does not identify specifics and makes absolutely no mention of these in the definitions section 301 (16 U.S.C. 47w).

The tribal position is that the Corp has failed to adequately identify all of the property types that are located along the lakeshores and that it has based its property value index on outdated and inaccurate information. The database used to develop the value index is dated for 1993 while the technical report is dated 1994. Furthermore the tribe believes that the projected impact zone used by the Corp to assess and/or calculate impacts to sites is inadequate because it does not extend far enough off of the 1620 elevation line. Erosion along the lakeshore causes sloughing and this sloughing reaches back onto the land quite a distance from the lakeshore and sites that are located above the 1620 line and sites located out of the impact zone do receive impacts and suffer degradation as a result of sloughing. Another concern the tribe has concerns the east bank of the lakeshore. Corp take lands on the east bank do not extend as far back from the shoreline as they do on the west bank lands. The take lands on the east bank and the Corp

obligation to mitigate and preserve known sites only extends to the take land boundary line. Sites located above this line are receiving impacts due to lake operations but are they included in the known sites listing?

The Corp data used to establish its value index is simply to old and outdated to be used as the basis for the index. A case in point is in 2001 surveys were done on 20+ recreation areas scheduled to transfer to the State of South Dakota. Known sites located at these recreation areas were surveyed to check their condition and determine if or how they had been impacted since their original discovery. In this particular project several of the sites listed in the database and revisited by Corp archaeological personnel to investigate them were gone. They had been eroded and washed out into the lake. The tribe asserts that follow up surveys on the "known" sites has not been done on a regular basis to gage whether or not existing sites lying along the lakeshore are 100%, 75%, 50%, 25% intact or have already been destroyed. This is extremely important to know because this information directly affects the existing database. The tribal assumption is the value index is based upon the number of known sites and that these sites are at 100% integrity. If however this is not true then the database information is already flawed and inaccurate and the value of the sites is off.

CONCLUSION

The tribe wants new surveys done on the lakeshores to locate and identify previously unknown sites referenced in NHPA but also TCP sites, which the Corp has little information on. Follow up surveys on known sites must be done to measure their current integrity against their original integrity when first recorded. To truly calculate the impact effect on sites based upon water levels TCP property types must also be included into the COE value index and all of the above concerns must be done. Remember that the alternatives presented in the Master Manual address impacts only to known historic properties and the tribal position is that no efforts have been made to factor in impacts to TCP sites or impacts to sites outside the projected impact zone. Based on the commentary the tribe at this time cannot endorse any of the alternatives currently listed in the Master Manual. If as we suspect that the database is inaccurate then the value index reflecting impacts to known sites is also inaccurate and does not portray a true measurement.

COUNCIL BLUFFS, IOWA TRANSCRIPT— FEBRUARY 19, 2002

U.S. ARMY CORPS OF ENGINEERS

NORTHWESTERN DIVISION

COMMENT SESSION

REVISED DRAFT ENVIRONMENTAL IMPACT STATEMENT

MISSOURI RIVER MASTER MANUAL

* * * * *

HEARING SESSION, taken before me, Gary A. Barnes, Court Reporter and General Notary Public within and for the State of Nebraska, commencing at the hour of 7:00 p.m., on the 19th day of February, 2002, at the Holiday Inn Hotel & Suites Ameristar, 2200 River Road, Council Bluffs, Iowa.

* * * * *

HEARING OFFICER:

Colonel Kurt Ubbelohde
Commander, Omaha District
U. S. Army Corps of Engineers
Northwestern Division
12565 West Center Road
Omaha, NE 68144-3869

TEAM MEMBERS:

Lawrence J. Cieslik, P.E.
Rose Hargrave
Paul Johnston
Roy McAllister
Rick Moore
Jody Farhat
Patti Lee
Betty Newhouse

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COLONEL UBBELOHDE: Welcome to this evening's comment session on the Revised Draft Environmental Impact Statement for the Missouri River Master Manual.

My name is Colonel Kurt Ubbelohde, Commander of the Omaha District, U.S. Army Corps of Engineers.

With me tonight are members of the team that prepared the Revised Draft Environmental Impact Statement: Rose Hargrave, Paul Johnston, Roy McAllister, Rick Moore, Mary Roth, Larry Cieslik, Jody Farhat, Patti Lee and Betty Newhouse. Also with us are Pam Haverland, from the USGS, and Jimmy Black, who is with our Western Area Power Administration.

This hearing is the last of 20 sessions that have been held from Helena, Montana to New Orleans, Louisiana.

This afternoon we conducted an open-house workshop. I hope that many of you were able to stop by and study the displays, pick up handouts and talk with the staff. If you weren't, please take a few minutes this evening to visit the displays.

Our agenda tonight will start with a

short video. There is a welcome, followed by a description of the projects, the features of the Revised Draft Environmental Impact Statement and the major impacts.

We want everyone to have a common understanding of the RDEIS. Copies of the summary and handouts, as well as the entire documents are available at libraries, project offices throughout the basin and you may also get a copy by writing to us or off of our website.

Following the video, I will give a fuller description of the comment process this evening and then we'll take your comments. And we'll stay as long as necessary for everyone to be heard.

And with that, we'll begin.

(Videotaped Presentation.)

COLONEL UBBELOHDE: This hearing session will come to order.

Our purpose this evening is to conduct a public hearing on the proposed changes to the guidelines from the Missouri River Mainstem System operations.

Before I proceed, I'd like to recognize a few elected officials.

The Mayor of Council Bluffs, Tom Hanafan.

The Mayor of Omaha, Mike Fahey.

Senator from the State of Iowa, Hubert Houser.

Also, from the Iowa State Senate, Melvyn Houser.

Iowa's Secretary of Agriculture, Patty Judge.

Representing Senator Chuck Hagel, from Nebraska, James Niger.

And representing Congressman Greg Ganske, Mr. Ben Post.

Do we have any other elected officials or their representatives here who wish to be recognized?

MS. BARRY: Donna Barry, representing Charles Grassley, Senator Grassley.

COLONEL UBBELOHDE: Thank you.

Yes, ma'am.

DR. PIPER: Dr. Barbara Piper, representing our Honorable Mayor of Carter Lake Iowa, Emil Hausner.

COLONEL UBBELOHDE: Yes, sir.

MR. NELSON: Representing the

Senator of Nebraska, Ben Nelson, Don Nelson.

COLONEL UBBELOHDE: Yes, sir?

MR. GOEDEKEN: David Goedeken representing Mayor Jerry Ryan, Bellevue, Nebraska.

COLONEL UBBELOHDE: Are there any others who wish to be recognized?

This hearing is being recorded by Gary Barnes of Barnes Reporting Service. He will be taking verbatim testimony that will be the basis for the official transcript and record of this hearing.

This transcript, with all written statements and other data, will be made part of the administrative record for action. Persons who were interested in obtaining a copy of the transcript for this session or any other session can do so. Persons interested in receiving a copy need to indicate this on one of the cards available at the table by the entrance. Also, if you are not on our mailing list and desire to be placed on it, please indicate this on one of the cards, as well.

In order to conduct an orderly hearing, it is essential that I have a card from

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anyone desiring to speak, giving your name and who you represent. If you desire to make a statement and have not filled out a card, please raise your hand and we'll furnish one to you.

I'd also like to ask if there's an empty seat next to you, raise your hand so that one of these fine folks who are standing around could also sit down. It's going to be a long evening. Please take advantage of the chairs, folks.

The purpose of tonight's session is to help ensure that we have all the essential information that we will need to make our decision on establishing the guidelines for the future operations of the Mainstem System and that this information is accurate. This is your opportunity to provide us with some of that information. We view this as a very important opportunity for you to have an influence on the decision. Therefore, I'm glad to see you all here tonight.

I want you to remember that tonight's forum is to discuss the proposed changes in the operation of the Missouri Mainstem System that are analyzed in the Revised Draft

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Environmental Impact Statement. We should concentrate our efforts this evening on those issues.

It is my intention to give all interested parties an opportunity to express their views on the proposed changes fully, freely and publicly. It is in the spirit of seeking a full disclosure and providing an opportunity for you to be heard regarding this decision that we have called this hearing. Anyone wishing to speak or make a statement will be given the opportunity to do so.

The Missouri River Mainstem System consists of Corps of Engineers' constructed and operated projects, so officially that makes us a project proponent. However, it is our intention that the final decision on the future operational guidelines for these projects reflects a plan that considers the views of all interests, focuses on the contemporary and future needs served by the Mainstem System and meets the requirements established by Congress.

As Hearing Officer, my role and responsibility is to conduct this hearing in such a manner as to ensure the full disclosure of all

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relevant facts bearing on the information that we currently have before us. If the information is inaccurate or incomplete, we need to know that and you can help us make that determination.

Ultimately, the final selection of a plan that provides the framework for the future operations of the Mainstem System will be based on the benefits that may be expected to accrue from the proposed plan as well the probable negative impacts, including cumulative impacts. This includes significant social, economic and environmental factors.

Should you desire to submit a written statement and do not have it prepared, you may send it to the U.S. Corps of Engineers in Omaha, Attention: The Missouri River Master Manual. You may also submit your comments by fax or electronically. If you need further information on how to submit your comments, please stop by the table outside this room and we'll be glad to give you that information. The official record for this hearing will be open until the 28th of February, 2002. To be properly considered, your written statements must be postmarked by that date.

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Before I begin taking testimony, I would like to say a few words about the order and procedure that will be followed. When we call your name, please come forward to the lectern, state you name and address, specify whether or not you're representing a group, agency, organization or if you're speaking as an individual. You will be given five minutes to complete your testimony. If you're going to read a statement, we would appreciate it if you could provide a copy to the court reporter prior to speaking to facilitate taking down your verbatim remarks.

After all statements were made time will be allowed for any additional remarks. During the session I may ask questions to clarify points for my own satisfaction. Since the purpose of this public hearing is to gather information that will be used to evaluate the proposed plan or alternatives to it, and since open debate between members of the audience would be counter productive to this purpose, I must insist that all comments be directed to me, the Hearing Officer.

With the exception of public

1 officials, or their representatives who will
2 speak first, speakers will be given an equal
3 opportunity to comment. Please remember,
4 speakers, you will have five minutes. We will be
5 using a lighted timer. When the yellow light
6 comes on, it means you have two minutes of time
7 remaining. When the red light comes on, your
8 five minutes are up. No portion of unused time
9 allotted to each speaker may be transferred to
10 another presenter. The purpose of the hearing is
11 to permit members of the public an equal
12 opportunity to concisely present their views,
13 information, or evidence. If we allow one
14 speaker to stockpile the unused time of others,
15 the result may be that the hearing record will be
16 unfairly tainted and others waiting to speak may
17 be discouraged from doing so. I'll now call the
18 names of those who have submitted cards,
19 beginning with elected officials.
20 MR. CIESLIK: Mayor Hanafan?
21 MAYOR HANAFAN: Tom Hanafan, Mayor
22 of the City of Council Bluffs, 209 Pearl Street,
23 51501.
24 Well, thank you for the opportunity
25 this evening to speak.

1 There are three (3) major issues
2 that we're concerned with in the City of Council
3 Bluffs. We've been a part of the Missouri River
4 Basin, obviously, since our existence. We go
5 back to 1890s, and we had our first flood in the
6 area; 1940's, when we had our second flood; and
7 the great flood of 1952.
8 In 1952, we created a dike system
9 that surrounds, goes to the north, throughout the
10 west and south, into Council Bluffs and, then, of
11 course, with the Loess Hills that we have to the
12 east, we've actually created somewhat of a bowl
13 system. And when the water or rain and snow that
14 comes down from the Loess Hills and then with any
15 increase in the levels in the Missouri River,
16 which also includes the Mosquito Creek and the
17 Indian Creek Basin. And as you raise water on
18 the Missouri River, we have nine pump stations in
19 place and we are in the process of building two
20 more pump stations, that we actually draw the
21 water down on the south and the west side of town
22 and if the river rises above that we shut those
23 pumps down, we shut down the gates to the river.
24 And, obviously, what happens is the groundwater
25 continues to increase, floods basements and does

IntD 14

HANAFAN 15

a tremendous amount of damage to our area.

We've learned how to live with it the way the levels are today. Any increase in spring runoff or increase in the spring water normally causes us some major problems. So we're obviously -- we build our community on sewer system control system around that front, so any change makes a major difference in what we do with our water levels.

IntD 14

The second area is economic development. We have the facility that you stayed in today was created by the State of Iowa, by law, for gambling. And the people in the state, in the Pottawattamie County area have voted it in. We have three (3) hotels -- four (4) hotels that set along the river and the river boats employ approximately three thousand (3,000) people. Any major change, again, the design standards were done according to the levels of the Missouri River today, and any change of that could create major problems in economic development along the river. That also includes new economic development as we look into the future north of here, as you move towards North 25th Street.

Other 7,25,273

FAHEY 16

The third area is quality of life. The City of Council Bluffs takes a hundred (100) percent of its water for its levee, the people to live, to drink and to eat out of the Missouri River. When there are low levels in the summertime and they can create some major problems.

WS 11

What we've done, we've built two new reservoirs to help that situation out. But, as the water levels go down, it makes it very difficult for us to do anything about bringing water back. And we also have, one other issue is that we have just signed on with MidAmerica Energy to build a new power plant and that power plant relies, the current power plant relies on water from the Missouri River for cooling water, which not only takes care of Council Bluffs and Western Iowa, but actually distributes electricity throughout the State of Iowa.

MoPower 1, 3

Thank you.

MR. CIESLIK: Mayor Fahey?

MAYOR FAHEY: Thank you and good evening.

My name is Mike Fahey, Mayor of the City of Omaha, 1819 Douglas Street, 68183.

FAHEY 17

First off, let me thank the Corps for hosting this evening's public testimony. I really do appreciate the opportunity to talk about this and you kept your word. I told you I would be thank of that and, obvious, judging by the turnout.

I appreciate the opportunity to further define and paint Omaha's new vision and dreams for its Missouri Riverfront and address the potential negative impact these new river proposals could have on that new vision.

Like any other important decision, there are many perspectives to consider. Many sides to study and often the best solution lies somewhere in the middle. The concerns raised by wildlife and ecological experts are valid, but the Omaha/Council Bluffs Area also have valid concerns that need to be considered.

The City of Omaha has four (4) major concerns. I would like to be clear that the devil is always in the details and tonight is just a review and summary of those issues.

Omaha and Council Bluffs rely on the Missouri River for many essential services. Much of our water supply comes from the river. River

FAHEY 18

levels have an impact on the releases of our sanitary and storm sewers. The Missouri River is utilized to cool area power plants, provide water for agricultural purposes and allows our city's industry barge transportation as a transportation alternative.

Now, regarding our economy, Tom talked about it briefly, I just want to reemphasize a few points.

Omaha has committed millions and, when it's all said and done, billions of dollars into new development and redevelopment of our Riverfront. So much is planned that we loosely titled it "Back to the River."

With our Convention Center marina, Gallup's new corporate headquarters, a fabulous pedestrian bridge linking hundreds of miles of trails and new restaurants and parks, Omahan's will soon have unprecedented access to the banks of the Missouri River. So the water levels, in particular during the warmer months, is imperative. We cannot underestimate the economic importance of having a functional and environmentally pleasing river.

Tom talked about the quality of

Other
7,79,273

life. Omaha is not blessed with large lakes, but recreational boating has steadily grown more important to Omaha's quality of life and Omaha's economy. All river proposals recommend lowering releases to a level equal to or, worse yet, below the minimal navigational channel requirements. Low summer flows would dry up our marinas. Boat docks would rest on mud and boats could be marooned. The planned docks for our new restaurant over there would not be feasible.

Nav 45

Our image is important to our city. Missouri River is a mud bottom river. The look of the Missouri River is a significant factor to consider when building on the Riverfront. A walk along our path, over our pedestrian bridge or through our parks will be less interesting if all we can enjoy are the muddy banks and the bottom of the Missouri River, throughout the warmer months.

Other 25

We are building a new front door to Omaha and a vibrant flowing Missouri River is an integral and key element.

In conclusion, the health and vitality of the Missouri River is critical to all of us. No doubt we all want the river to be the

best it can be, but we must find a middle ground.

To avoid severe economic outcomes, Omaha respectfully requests that the summer river levels be maintained at no less than sixteen (16) feet, as measured at the Omaha Station.

I thank you for your time.

MR. CIESLIK: Hubert Houser?

DR. PIPER: Good evening, I'm Dr. Barbara Piper, representing the Honorable Mayor from our City, Carter Lake, Iowa.

I would also like to wish the Colonel, you and the other engineers of the U.S. Army Corps of Engineers a very happy National Engineers Week.

I would like to read into testimony a letter that we have composed from the City of Carter Lake.

Elected officials and other public representatives of the City of Carter Lake, Iowa want to have this letter read and entered as part of the formal testimony recorded this evening regarding the Missouri River Master Manual Revised Draft Environmental Impact Statement.

Carter Lake, a horseshoe-shaped oxbow lake of the Missouri River is located on

PIPER 21

the eastern edge of Omaha on the Iowa/Nebraska state line. The lake is situated directly across from the Missouri River at River Mile Six Twenty (620) on the right bank. The lake is approximately three (3) miles long, has a water surface area of three hundred and twenty (320) acres and varies in width from five hundred (500) to fourteen hundred and fifty (1450) feet.

Carter Lake has a rich history since being separated from the Missouri River in the late 1800s. Today high value, residential properties, as well as public parks, follow its lake front. Property values along the lake front exceed eighteen point six (18.6) million dollars and additional high value properties along the lake front are being developed.

Adjacent property owners and the public can intensively use the lake for recreation.

We have reviewed the six options discuss in the Revised Draft and are concerned that the negative impasse to Carter Lake have not been adequately addressed.

Oxbow lakes are connected to Missouri River levels through both surface water

GW 18

PIPER 22

flooding and groundwater movement. This fact is contained in an engineer research report issued by the University of Iowa, in cooperation with the Iowa Geologic Society, entitled "Water Management, Water Quality and Alluvial Morphology of Selected Iowa Oxbow Lakes."

This report states that the water balance of the lake is depending upon recharge by precipitation, surface water and groundwater at times of high precipitation and groundwater levels. This is the case for Carter Lake.

The desired level of the lake is between nine hundred seventy point five (970.5) and nine hundred seventy-one (971) feet above mean sea level. The mean Missouri River level between April to October near Carter Lake is nine hundred seventy point six (970.6) feet on gauge data recorded between 1953 and 2000.

Missouri River elevations above nine hundred seventy-one (971) feet raise the level of Carter Lake. River levels lower than nine seventy-one (971) feet lead to increased lake seepage losses.

As a consequence, any change in the Missouri River levels from historic operations

GW 18 (con't)

GW 18 (con't)

will have a direct impact on water levels in Carter Lake. Higher groundwater levels will increase Carter Lake's water elevation and will cause shoreline erosion, boat and dock damage and lowland flooding.

Lowering Missouri River levels will in turn decrease Carter Lake depth levels, leading to not only aesthetic damages, recreational limitations and water quality problems, but also to aquatic habitat damage.

Carter Lake is a relatively shallow lake and any loss in lake depth has pronounced ecological and recreational effects.

Property damages resulting from the proposed Missouri River changes would be directly attributable to the flow alterations from the 1953 historic levels.

As a consequence, the City of Carter Lake is opposed to flow alterations that would be to higher river levels in the spring and lower river levels in the fall.

We recommend that the U.S. Army Corps of Engineers install an improved Carter Lake Water Level Management System to mitigate the damages that would otherwise occur with

fluctuating river levels.

Thank you very much.

MR. CIESLIK: Hubert Houser?

SENATOR HOUSER: Colonel, Ladies and Gentlemen, my name is Hubert Houser, 34697 Beechnut Road, Carson, Iowa. I'm a member of the Iowa Senate. I represent several Iowa Counties adjoining the Missouri River.

With yesterday's action in the Iowa Legislature, both the Iowa House and Senate have now passed Senate File 2051. This bill establishes an Iowa Inter-Agency Missouri River Authority. The bill directs this Authority to denote management of the Missouri River in a manner that does not negatively impact landowners along the river or negatively impact the State's economy.

Iowa has been represented on the Missouri River Basin Association by a staff person from the Iowa Department of Natural Resources.

The bill just passed by the Iowa Legislature expands Iowa's representation to include the Departments of Economic Development, Transportation, Agriculture and the Utilities

Commission. We believe this group will more fully represent Iowa's interest as it relates to Missouri River matters. We would encourage other member states in the Missouri River Basin Association to do likewise. It is important that all interests be at the table and not just natural resources.

The Governor of Iowa is directing state agencies to oppose a spring rise and to advocate for alternative methods and mitigate any impact on threatened species.

Other 70

Before the Corps implements any changes in the Master Water Control Manual that may put our communities, farms and economy at risk, we urge that the interest of all be first resolved.

Thank you.

MR. CIESLIK: Melvyn Houser? Melvyn Houser?

MR. HOUSER: My name's Melvyn Houser, representing the Pottawattamie County Board of Supervisors. The address is 27 South 6th Street, Council Bluffs, Iowa 51501.

I have submitted earlier today a resolution passed by the Pottawattamie County

Board of Supervisors asking that the Army Corps of Engineers maintain its Current Water Control Plan.

I would also like to take the opportunity to make a small talk on personal notes.

"The next World War will be over Water."

This quote was made by Ismail Serageldin, Vice President of World Bank.

I would like to congratulate the Army Corps of Engineers for bringing together such an eclectic diverse group of people who are against any changes in the Current Water Control Plan. This is a nonpartisan group of city and county officials, Farm Bureau members, farmers, power company and others who are united on this issue. They will tell you about potential economic losses, not only to the farmers, but about the ripple affect of those who supply the farmers. They will talk about potential losses in ability to economically produce the electrical power we depend on and they will tell you why we need water levels to remain as they are.

I don't want to talk about why we

need water, but why we have a right to it.

The name for Islamic law is "shari'a," which stems from the word meaning "The sharing of water."

Fourteen thousand (14,000) years ago, the fledgling Muslim religion states that water is a right. This was from a people who live in the desert. But now government and agencies who manage water treat it as a need, much like oil or transportation or high-speed internet service.

At first thought, one would think that "right" and "need" are the same, but they are not. A "need" is something that is necessary and desired, but can be denied. A "right," on the other hand, is an entitlement which cannot be denied. If water is a need, then it can be classified with roads and telecommunications, something people want, but not necessarily guaranteed. If it is a right, then local governments and agencies are required to provide it, as we do freedom and religion and speech.

Someday, I don't know when, these dams may be gone. There will be no Walleye fishing in South Dakota, no farming as we know it

along the river. No houses or businesses in West Council Bluffs. The building and the levees will be gone, and for all we know, the Pallid Sturgeon will die, or thrive, regardless of what we do.

But, until then, we folks downstream do not want to be denied our right to a dependable flow of Missouri River water.

I respectfully ask that the Army Corps of Engineers keep in place the Current Water Control Plan.

Thank you.

MR. CIESLIK: Patty Judge?

MS. JUDGE: Good evening. Patty Judge, Iowa Department of Agriculture, Des Moines, Iowa 50319.

The comments I'm making this evening are made by me as an elected official of the State of Iowa. Official comments from the State of Iowa will be followed at a later date.

Iowa's mighty rivers are as much a part of our history as our farm heritage and as a child I remember, as I'm sure most of you do, reading about Lewis and Clark and their explorations of the Missouri River and how exciting that must have been to travel that river

JUDGE 29

back in 1804.

Well, recent debate has centered on returning the Missouri River to its natural state that Meriwether Lewis and William Clark found when they began that journey.

While that's a rather romantic thought, it's not one that a reasonable person can entertain for very long, any more than we can return to horse and buggy transportation, country schools, mud roads and outside toilets.

Over 60 years ago the comprehensive plan was developed called the Missouri River Basin Project and the Corps of Engineers' Project called for development of water resources on the river and the tributaries drained a half a million square miles, constructed dams with the storage capacity of seventy-three (73) million acre feet, created two point six (2.6) million kilowatts of hydroelectric generation and a navigable channel from Sioux City to St. Louis.

You heard earlier tonight six dams were built on the river, in Montana, South Dakota and North Dakota. Those projects were undertaken, in part, with the idea of regulating the flow of water as a flood control measure.

JUDGE 30

Those of us who remember the devastation of river flooding not so very long ago aren't very eager to return to that situation.

The projects have worked very well, allowing for commerce, energy production and agriculture to thrive along the river corridor.

The Corps is now considering a change in the management of the Missouri River. The proposed changes would decrease the flow of water from Gavins Point Dam in South Dakota, south along Iowa in the summer and increase the flow of water in the spring months. The result of this action would be a more stable water table at the lake, located at Gavins Point, which would allow for increased recreational activities in South Dakota.

Other 23

Meanwhile, here in Iowa we are hearing that the proposed changes are an attempt to return the river to a natural state and to protect certain birds and fish.

It's important to note that the current proposal only returns Missouri to a semi-natural state between Sioux City and Kansas City. The upper river is not part of the proposal and the removal of the constructed dams

Other 7

JUDGE 31

is not being considered. The only stretch of the river that is adversely affected is the section that borders Iowa.

Other 187

If, in fact, the goal were to restore the Missouri to a pre-1944 status, would seem to me that that would require removal of the upstream dams, as well as downstream flooding.

I cannot believe that removing flood control dams in the Dakotas would be viewed by very many people as sound thinking. But, unless we're willing to adopt that type of thinking, we're not really talking about river restoration, we're talking about toying with the flow of water over a small stretch of the river. In addition, those affected species can be found in other parts of the river.

EnSp 28

While the area under consideration includes only a small stretch of the river, it is a vitally important stretch to our state. In fact, the proposed changes will have a profoundly negative impact on the agriculture industry and on the communities in Iowa dependent on agriculture.

Competitive transportation structure, including barges, railroads and trucks

Nav 8, 6

JUDGE 32

help keep transportation costs down. Market data shows that farmers receive higher prices for their products the closer they are to the river. And higher prices reflect lower transportation costs.

Nav 7

The Corps' Current Water Control Plan offers the most benefit for flood control, which was the primary Congressionally-approved purpose of river management.

Increasing spring flows, as the Corps would do -- is considering doing, would increase the risk of flooding and drainage on one point four (1.4) million acres of farmland in Iowa, Nebraska, Kansas and Missouri.

FC 8
IntD 8

Finally, and very importantly, nearly forty (40) percent of Iowa's power needs are met by facilities on the Missouri River. These include both turbine generated power of the mainstem dams and coal-fired plants on the Iowa link to the Missouri River.

MoPower 1

According to the Corps' Environmental Impact Statement, western area power administration rates could rise by up to thirty (30) percent for many customers, including urban consumers in Council Bluffs, Sioux City and

Des Moines. That increase in electrical rates will affect not only the agricultural community but urban residents, also.

Iowa needs everyone of our family farmers. The struggles make the crop in this day's market very difficult. Goals should be aimed at sustaining farming operations while protecting the environment. It cannot and should not be an either/or approach.

The results of the changes as currently proposed by the Corps in handling the Missouri River will result in economic hardship for Iowa farmers, an increase in energy costs for Iowa consumers and the end of navigation on the river.

In short, the implications of these changes will affect nearly every Iowan. There has to be a better solution for Iowa, so let's keep working together and see if we can find it.

Thank you.

MR. CIESLIK: David Goedeken?

MR. GOEDEKEN: Good evening. My name is David Goedeken and I'm representing Mayor Jerry Ryan of the City of Bellevue, Nebraska, and I'd like to concur with many of the comments that

our neighbors in Iowa and the Omaha Metropolitan Area have given. I don't necessarily need to repeat them, I don't believe.

Particularly, we'd like to comment upon some things affecting higher waters in the springs, our citizens owning property in the low lying areas of the Bellevue Metro Area and the lower water levels in the summer.

The City of Bellevue has invested large sums of money in the marina in 1988. And our slip owners utilizing the marina have invested large sums of money in boats, et cetera, and we're concerned that the low flows during the summer will restrict their use of the goods that they purchased and flow is fluctuating up and down. Every time the water goes up and the river goes down we end up expending money to clean up the siltation that occurs in our marinas.

Rec 4, 33

On February 11th, namely, the Bellevue City Council passed a Resolution supporting a position statement by the Papio Missouri River Natural Resource District and rather than read the entire Resolution, I'd like to have that entered into the record.

Thank you.

SMITH 35

MR. CIESLIK: Robert Smith? Robert Smith?

MR. SMITH: Good evening, I'm Robert Smith. I'm the Chairman of the Board of Harrison County Board of Supervisors.

Our County Board is the trustees for several drainage districts in the western part of our county, which rely heavily on adequate drainage into the Missouri River. Also, at least one community in the western side of our county routinely uses pumps every spring to maintain a low water level or water table to prevent basement flooding. Those pumps also drain into these drainage ditches.

Any increase in the flow of the Missouri during the spring will have a dramatic negative impact on not only this community, but all of our drainage in the western part of the county, which will ultimately result in several thousand acres which we would surmise would not be able to be farmed.

We don't feel that it's fair to ask farmers, landowners and/or residential homeowners to be negatively impacted with increased flows in the spring for the purpose of wildlife or

IntD 8
GW 19

SMITH 36

recreation in the northern areas.

As Patty Judge said, Iowa is one of the states that will be negatively impacted by higher flows in the spring and Harrison County and the counties on further down the river from us will certainly be negatively impacted.

We're a rural county and our major economic contribution is derived from agriculture and we're dealing with changes in agriculture which are not necessarily positive and we don't think it's fair to ask our farmers and landowners in the western side of the county to be unable to farm some of the ground.

Not only that, we worry about what could ultimately happen to our tax base if some of this ground is not able to be farmed for several years. I would surmise it will become wetland, which will have a negative impact on our tax base in the county and since property taxes are the only means of financial support we have, we would be certainly in question about how much money we would have for revenue.

Thank you.

MR. CIESLIK: Steve Oltmans?

MR. OLTMANS: Colonel, thank you

Other 70, 218

very much for holding this 20th hearing here in the, what we think is the River City, as far as the whole basin is concerned.

I'm here tonight representing the Papio Board of Directors of the Papio Missouri River Natural Resources District and I'm the General Manager of that District, with offices at 8901 South 154th Street, in Omaha, Nebraska.

On behalf of the Board we are appreciative to all the Corps efforts. We followed this process for the last 13 years very closely and our Board adopted formal statements and positions in this process in '94, '98 and again in December of 2001.

We have reviewed all the materials provided by your agency and the Fish and Wildlife Service, in-house and with consulting services helping us, as well.

We're in support of the MCP plan. We think that plan will provide significant improvements in the river's habitat, at the same time maintaining the flows as they are today in the river process.

Other A, 7

We are of a strong opinion that if the Corps decides to dub something other than the

current plan or the MCP plan, that they not go further than 1528 plan. We think if you go further in the flow regimes than that, you will unravel many things that we know the river has today, including power production, recreation in the summer months, water for cooling power production and navigation on the river, which we think is very important in the long-term in providing something competitive in the free market of commerce.

Other 3
MoPower 1
Rec 34
Nav 30

The District represents approximately a hundred and fifty (150) miles of the Missouri River, from the Platte to the Dixon Dakota County line up around Sioux City, so we're quite concerned with the changes that some of the flow regimes propose.

To our knowledge, there's no entity of Government, including the States of Iowa and Missouri and Kansas and Nebraska that have sponsored and are currently sponsoring rehabitation of the Missouri River habitat in our current District.

We currently have three (3), 1135 projects under contract with the Corps on our side of the river and two, 206's involved on the

OLTMANS 39

project.

So we are very intensified and really feel that in order to improve the habitat for the endangered species under consideration here, you must have habitat before the spring rises are going to be a great deal beneficial and we're pretty confident of that fact.

WRH 6
EnSp 26

In conclusion, on behalf of the NRD Board, I will submit a statement addressing all of the key points in the proposed Master Manual schemes, but we really feel if the environmental interests, if the conservationist's interests, all four (4) states in the navigable river stretch, the power interests, if we really want to improve the quality of the river, then we should join hands and convince Congress and the current administration to put significant dollars in the Missouri River Navigation Act, which was passed in 1986. That, if properly funded, for a billion dollars ($1.000,000,000) over twenty (20) years, we feel that would return in that twenty (20) years approximately twenty-five (25) percent of the habitat that was on this stretch, seven hundred and some (700-) miles of river when Lewis and Clark looked at it two hundred (200) years

WRH 6
EnSp 26

WHIPPLE 40

ago.

We think that would be significant. We think if you had that accomplished on a voluntary land purchase basis that then possibly some adjustments in the flow would then be beneficial and you would have a lot less impact on the current landowners as we know them today.

WRH 6
EnSp 26
(con't)

Let me conclude on that point, our Board is very strong as to the -- if that was the intent of the land when we built the mainstem structures, the policy of our government to encourage agriculture interest to clear repairing lands and produce more food and fiber, if we're going to change that policy to recreate some of that habitat, then we feel very strongly that those landowners should be compensated, and we see nothing in the current proposal that would accomplish that.

So, those are kind of our bullet points and we'll hand in our formal statement for the record and we appreciate the opportunity to be here.

MR. CIESLIK: John Whipple?

MR. WHIPPLE: Good evening. My name's John Whipple. My address is 2931 Fremont

WHIPPLE 41

Avenue, Shenandoah, Iowa 51601, and I'm currently serving on the Fremont County, County Board of Supervisors.

One of the reasons for the dams on the river is flood control. If the spring rise is implemented the result will be that the part of the river that is below Omaha, Nebraska, will have controlled flooding. This will be caused by the rise in the water table that results from higher river levels.

A few years ago the Board of Supervisors in five counties that border the river and the Iowa Farm Bureau Federation contracted with the USGS to do a study on the impact of the spring rise. The results of that study showed that Fremont County would have a loss of some degree of production on fifty-five thousand, seven hundred and two (55,702) acres. When you add together the value of the land and the value of the crop that will be lost, the dollar amount is eighty-six million, five hundred and sixty thousand, six hundred and seventy-six dollars ($86,560,676).

The response to acres lost will probably be, well, just put those acres in

GW 14

WHIPPLE 42

wetlands and pay the farmer for the value of an easement.

If the farmer's paid a thousand dollars ($1,000) an acre for the easement, that total is fifty-five million, seven hundred two thousand dollars ($55,702,000). What happened to the other thirty million, eight hundred fifty-eight thousand dollars ($30,858,000)?

Most of the people in economic development say that a dollar rolls over between five (5) and seven (7) times. If we use a rollover factor of five (5), this will be a loss of a hundred and fifty-four million, two hundred ninety thousand dollars ($154,290,000) in economic activity in Fremont County.

A loss of this magnitude will be devastating to the small rural towns that serve agriculture. It will also have an impact on the larger cities of the area. Has anyone ever figured the total economic impact from Sioux City to St. Louis and on to the gulf? And, you know, it brings into question, just what is the value of a couple of birds and fish that on a national level may or may not be endangered?

Navigation is the second important

Other 48, 124, 218

Nav 11

element of the Missouri River. I've heard people say that the traffic on the river is too low to be of any consequence. Just the fact that the river is there and usable helps keep a lid on rail and truck rates. This not only shows up on the bottom line for agriculture but for other industries that use products that can be shipped on the river.

Nav 8

A third reason is the electric power plants along the river that need a constant source of cooling water. If the spring rise is implemented, the river levels will drop at a time of year when the power is needed most and force reduction of power.

MoPower 1

On February 14, 2002, the Fremont County Board of Supervisors passed a Resolution that, in short, asked the Corps of Engineers to reevaluate and to address the provisions mentioned above before implementing any changes in their plan. And I have enclosed a copy of that Resolution for the record.

Thank you.

MR. CIESLIK: Doug Beckman? Douglas Beckman?

MR. BECKMAN: Good evening, Colonel.

I'm Douglas Beckman. My address is 55275 260th Street, Glenwood, Iowa, and I'm here as a representative of the Mills County Board of Supervisors.

From what's already been said there appears to be some uncertainties as to whether the change imposed would help the endangered species in the first place and that in view of that there's just too much risk to all the things that we have along the river now to try to see if that would work.

The Board of Supervisors of Mills County made this Resolution:

Whereas, Mills County Board of Supervisors has reviewed the Revised Draft of the Missouri River Environmental Impact Statement, dated August, 2001, and,

Other 10

Whereas, Mills County is opposed to granting any type of Adaptive Management practices and,

Whereas, Mills County recognizes several positive attributes to the Missouri River such as recreation, environmental, industrial, agriculture, transportation and commercial and education and,

TRUMBLE 45

Whereas, Mills County is rural in nature with agriculture as its largest industry. Proposed changes in flow will expose valuable farmland and commercial development to flooding. Also involved would be drainage problems, stagnant water issues and adverse groundwater conditions,

FC 8
IntD 8
GW 7

Now therefore be it resolved, by the Mills County Board of Supervisors in session February 14, 2002, we request that management and flow characteristics remain as stated in the Current Water Control Plan.

In watching the film that we started the meeting with tonight and standing on what the river was like in the beginning, there was a lot of habitat and few people. Today there's a lot of people and I think maybe they should be considered as being the most important part of the river.

Thank you.

MR. CIESLIK: Allen Trumble?

MR. TRUMBLE: My name is Allen Trumble and I reside at 16350 County Road P 10 at Herman, Nebraska. I'm a member of the Burt and Washington County Drainage Board Directors. I'm

TRUMBLE 46

here to read a Resolution.

The following is a Resolution adopted by the Board of Directors of the Burt and Washington County Drainage District at its regular meeting held February 2nd, 2002.

The Drain District maintains drainage ditches in Burt and Washington Counties on agricultural lands in the Missouri River Drainage Area from south of Decatur to Blair, Nebraska.

The Resolution is, whereas, Burt and Washington Drainage District drains lands in both Burt and Washington County, Nebraska, and is dependent on the Missouri River as an outlet for its several drainage channels in the said Counties, and,

IntD 8
GW 19

Whereas, the stage of the Missouri River flow directly affects the efficiency of said drainage channels and any increase in the discharge from Gavins Point during the spring adversely affects the efficiency of the District's drainage system,

Now therefore be it resolved by the Board of Directors of this Drainage District that the District supports the Current Water Control

Plan with minor adaptive management variables, as utilized in the past, and urges adoption of said alternative plan, the Current Water Control Plan.

MR. CIESLIK: Ione Werthman?

MS. WERTHMAN: Colonel, I'm Ione Werthman, 11649 Burt Street, Omaha, Nebraska. I'm Conservation Chair of the Audubon Society of Omaha.

I did testify in Nebraska City, and at that time we asked the Corps of Engineers to adopt the Flexible Flow Alternative, GP2021, for the Missouri River Management Plan. I come here this evening to reiterate that testimony.

GP2021 is still the best option to use for the management of the Missouri River.

Environmental research on large rivers with similar problems of native species preservation supports the requirements for correctly timed and suitably sized water releases from dams as the essential ingredient for native species preservation. Both the U.S. Fish and Wildlife Biological Opinion and the 2002 National Academy of Science study has spoken and endorsed the larger Flexible Flow Alternatives. We believe a serious error will occur if sufficient

EnSp 37

water releases are not included in the future long- and short-term dam operational plans.

EnSp 5

We believe it would be best to start with the higher flows, with more flexibility built in, than to be sorry later on. Money that could be spent on habitat development projects would be for naught if the key ingredient, water releases, could not be properly adjusted and sufficiently increased.

Other 61

We do applaud the decision of the Missouri River Basin Association for endorsing a ten-year plan to experiment with the flow changes in an effort to help endangered wildlife. This is certainly a step in the right direction. However, as we see it, the alternative they have indicated that should be used for the ten (10) year plan tests will not give the Corps the flexibility it needs in options to make sure the project succeeds. If the experiments fail, if the Corps has their hands tied and the experiments with GP1528 would prove that larger flows are definitely needed, I would certainly hate to see us have to go through another twelve (12) to fourteen (14) years of debate ten (10) years from now. Our poor wildlife by that time

WELTE 49

will be all but extinct.

We also agree with the MRBA that a habitat mitigation program with proper monitoring must be put into place for both the Endangered Species Act and the Missouri River Mitigation impacts. This source of funding is long over due.

WRH 6

We again urge the Corps to initiate GP2021 in your Master Manual plans for restoration of our historic Missouri River.

Thank you.

COLONEL UBBELOHDE: I must caution everyone to please respect the speakers. Everybody's going to get there fair share at the microphone. Be respectful of others.

MR. CIESLIK: Maurice Welte?

MR. WELTE: Thank you, Colonel.

My name is Maury Welte, a member of the Woodbury County Board of Supervisors, which also includes Sioux City.

My address is 2014 Roundtable Road, Sergeant Bluff Iowa.

This morning we passed a Resolution, which is similar to the Resolution passed and forwarded by the City of Sioux City two weeks ago

WELTE 50

and I'd like to read it.

Whereas, the United States Army Corps of Engineers has proposed to release higher than normal flows down the Missouri River in the spring and fall and release substantially lower flows in the summer; and,

Whereas, the proposed changes will damage property, the economy and the recreational use of the Missouri River and communities downstream from Gavins Point Dam in Yankton, South Dakota; and,

Whereas, changes in Missouri River water levels could move nearby contaminants to Sioux City's well fields and result in a loss of public drinking water supplies and create a danger to public health; and,

WQ 12
WS 11

Whereas, valuable farmland will be exposed to potential flooding, drainage problems and adverse groundwater conditions; and,

FC 8
IntD 8
GW 7

Whereas, elimination of navigation on the Missouri River would shift transportation to rail and trucks, resulting in higher transportation costs and straining the ground transportation infrastructure; and,

Nav 12, 23

Whereas, reduced summer flows

jeopardize electric power supply during peak usage months; and,

HPower 18
WAPA 3

Whereas, vaguely defined adaptive management plans could circumvent opportunities for public review and input regarding river management plans.

Other 10

Now, therefore, be it resolved by the Woodbury County Board of Supervisors that the United States Corps of Engineers be urged to reconsider and address and solve the aforementioned problems before implementing the proposed changes in the Draft Implementation Plan.

Passed and approved this 19th day of February, 2002, Woodbury County Board of Supervisors.

Thank you.

MR. CIESLIK: Terry King?

MR. KING: Yes, thank you, Colonel.

My name is Terry King. I am the Executive Director of the Nebraska Chapter, Associated General Contractors of America.

That's a mouthful, but that is an organization that represents the highway construction industry in the State of Nebraska

and the heavy construction industry also in that state.

My concern mainly that I want to address, as the other concerns have been addressed very well by the other speakers, I want to address the summer flows, the reduction of summer flows that would limit the transportation on the river.

There are several construction products that come up river and other construction products that go down river and the river transportation is essential to maintaining a competitive environment for those materials.

There's a cement facility in Omaha that receives cement by barge. It's one of the only other alternative sources of cement in Eastern Nebraska, other than for the Ashville Plant near Louisville.

There are oil transports that go up river to Sioux City. That oil is used in the making of asphalt oils. It's a very competitive situation and if the barge traffic were eliminated, again, you'd be looking at pipeline or truck sources that might not be as competitive as sources that come up river on the barge.

Sand and gravel and aggregate go down river and that's important to the sand and gravel producers in the state of Nebraska and other aggregate businesses in other states.

We think these are important ingredients to maintain. I think any reduction in flows during the summer months that would eliminate those sources of transportation would have, as an impact, higher road construction costs and it would have an impact on the companies that rely on those sources and materials.

Nav 23

I'll submit written comments to the Board.

Thank you.

MR. CIESLIK: Franco Owens?

MR. OWENS: Hi, my name is Franco Owens. I'm at 2660 Stagecoach Road, Webster City, Iowa 50595. I represent Iowa Corn Growers Association and the Grain Merchandising and International Trade and Transportation Committee Chairman.

I've been thinking about what I needed to say tonight since about Quincy. I was at the meeting in Quincy and represented the Iowa

Corn Growers there.

Tonight I thought we've heard a lot of different things about there were issues from municipalities, from drainage districts and others. I thought I would just bring you a perspective from an Iowa farmer who's landlocked. I'm in the middle of the state. Our mode of transportation is rail.

I was just at the bankers today and so I thought I would propose to you the scenario that I ran into today, looking at the bank. They want to know what my plan is for the next year. And if you were the banker and the Fish and Wildlife brought you a scenario where they want to take care of a fish and two birds, they have a clue what they want to do, but do they have any idea what kind of results they're going to get?

My banker wants to know what my yields are going to be, what I think I can expect for a price at harvest and what my gross income's going to be.

Currently, the Fish and Wildlife plan starts with three (3) endangered species and we have a question with are they really endangered species? It's questionable. It's in

EnSp 28

OWENS 55

1 litigation, as I understand. But, if they were
2 to bring that plan to a financial institution
3 would they get funding? I wouldn't. I'd get
4 laughed right out of the bank.
5 I also wonder if they have thought
6 about doing more to restore the fish through
7 hatcheries. They do that with Walleye and
8 Northern Pike and other fish. Have they tried
9 increasing the Pallid Sturgeon by hatcheries?
10 Have they done anything to help the birds out
11 with habitat? Someone spoke to that. But, what
12 kind of a -- what kind of a yield are they going
13 to get for messing up the river?
14 I tell you what it will do to me in
15 Central Iowa. We stopped to figure out just some
16 of the things that are happening. I talked to my
17 electrical co-op man. We get twenty (20) percent
18 of our electrical power from there. The barge
19 industry keeps the railroads in check and the
20 trucking industry in check in the rates.
21 We figured out that if the shipping
22 was to cease on the Missouri, it would raise our
23 International basis ten (10) cents. We're losing
24 ten (10) cents a bushel on corn and beans. Just
25 if the river stopped shipping. We all know that

EnSp 26,42

Nav 7, 23

OWENS 56

1 if the river stopped shipping, the railroad would
2 have to retool. They'd need more power, they'd
3 need more cars and it wouldn't come free. Are
4 our bases served?
5 It was a ten (10) cent minimum. My
6 guess is it's going to double. It will be twenty
7 (20) cents. We're already thirty (30) cents
8 under basis of Chicago, which means we're making
9 thirty (30) cents less than what the Chicago
10 Board of Trade price is. If they do change that,
11 we're going to have more problems with that
12 basis. We're also going to have more problem
13 with fertilizer prices. They will go up because
14 of the decrease in competition.
15 My banker tells me if I lost that
16 much in basis, I'm out of business today. I
17 would get a loan.
18 Right now I have to go back and my
19 father-in-law has to sign for me.
20 I want to just thank you for the
21 opportunity to testify and I also want to add
22 that the National Academy of Sciences has asked
23 for a moratorium on changes in the river flow
24 until they understand what's going on with the
25 river and how it will affect these species.

Other 46

WELLS 57

Thank you for the opportunity.

MR. CIESLIK: Michael Wells?

MR. WELLS: Good evening, Colonel.

My name is Michael Wells. I'm Chief of Water Resources for the State of Missouri. I'm here representing the State of Missouri tonight. I'm from Jefferson City.

I thank the Corps of Engineers for this opportunity to comment tonight. Tonight I want to express the concern that the analysis of impacts to electricity production and pricing was not properly carried out and that the portrayal in the RDEIS is misleading to the public and their elected officials.

MoPower 1

Utilities in Missouri are concerned that several of the proposed alternatives would result in low summer flows, which would cause NPDES violations of thermal standards that reduce power production at a time when power is most needed and most valuable.

We note that the Western Area Power Administration finds that the same alternatives, the so-called GP alternatives, do not take full advantage of the power production capacity of the Missouri River Mainstem dams which basically

HPower 18

WELLS 58

results in less power production and a decrease in WAPA revenues.

The State of Missouri believes that the Corps has misled the public by showing that the GP alternatives provide the greatest level of hydropower benefits to the nation when the loss of ten (10) to thirty (30) million dollars annually in revenues to the Western Area Power Administration was not included in the analysis.

HPower 2, 18

To not consider these losses in revenues to WAPA in the national economic development account does not comply with principles and guidelines for planning water resource products.

WAPA has informed us that the revenue shortfall will be made up through rate increases to WAPA customers.

I offer for the record the information provided to WAPA, the names of the communities in Montana, North Dakota, South Dakota, Minnesota, Nebraska and Iowa that would have their rates increased.

The communities in Iowa are: Akron, Alta, Alton, Anita, Breda, Coon Rapids, Corning, Denison, Fontanelle, Glidden, Greetinger, Harlan,

WELLS 59

Hartley, Hawardan, Hinton, Kimbellton, Lake Park, Lake View, Laurens, Lenox Manilla, Manning, Mapleton, Milford, Onawa, Orange City, Paullina, Primghar, Remsen, Rock Rapids, Sanborn, Shelby, Sibley, Sioux Center, Spencer, Stanton, Villisca, Wall Lake, Woodbine.

The communities in Nebraska are Arnold, Beatrice State Development Center, Blue Hill, Callaway, Grand Island, Hastings, Hastings Regional Center, Nebraska State Penitentiary, Norfolk Regional Center, Omaha Tribe of Nebraska, Peru State College, Ponca Tribe of Nebraska, Sanlee Sioux Tribe of Nebraska, Spalding, University of Nebraska-Lincoln, University of Nebraska-Omaha, Wayne State College, Wilber, Winnebago Tribe of Nebraska, Winside and Wisner.

I would like to also enter for the record the "Scientific Evaluation of Biological Opinions on Endangered and Threatened Fishes in the Klamath River Basin," that was recently completed by a committee of the National Academy of Sciences. This report specifically examines the details of the biological opinion on three fish species in the river and found that two proposed actions were unjustified scientifically.

Other 189

WELLS 60

The committee noted a lack of correlation between the proposed actions and expected results.

The following quote from the committee's principal findings appears to apply to the Missouri River as well. The committee, however, did not find clear scientific or technical support for increased minimum flows in the Klamath River Mainstem. Although the proposed higher flows are intended to increase the amount of habitat in the mainstem, the increase in habitat space that can occur through adjustments in water management in dry years is small, a few percent, and possibly insignificant.

Other 189 (con't)

On the Missouri River the Corps has determined that the low summer flows recommended by the service would create only about a hundred (100) acres of Tern and Plover habitat along the entire length of the river. The Corps did not analyze Tern and Plover habitat along the reservoirs; habitat there would be lost to inundation in plans that incorporate the Modified Conservation Plan.

Clearly, the Corps of Engineers must examine in detail the changes in river management under consideration and their actual benefits.

EnSp 22,46

NIKSICK 61

In performing this important task, the Corps must adjust to the negative effects caused by the higher lake levels that occur with all alternatives, including loss of miles of free flowing river habitat and also Tern and Plover habitat around the reservoirs and degradation of remaining Tern and Plover habitat around the reservoirs.

EnSp 22,46 (con't)

Thank you again for the opportunity to comment.

MR. CIESLIK: John Niksick?

MR. NIKSICK: John Niksick, City of Omaha, Park and Recreation Department, 1819 Farnam 68183.

I'm the current manager of the NP Dodge Park Marina and I'd like to say a few words about where this marina has been, where it's at now and some doubt as about where it's going.

Now, as member of the Park and Recreation Department, our whole function is to provide activities and facilities for the enjoyment of the public.

Some twenty-five (25) years ago we were approached by voters in the area about the potential of constructing a marina. After

NIKSICK 62

considerable deliberation, we decided to build the Marina. It was then Art Bradley who made this decision. What we did was to create a marina enterprise contract and we issued several thousand -- several hundred thousand dollars worth of revenue bonds to construct the current dock system that you see at the NP Dodge Public Marina.

Now, these bonds, these revenue bonds, were a direct responsibility to the marina. In other words, we had funding that would take the revenue from the facility to pay for the principal and interest payment on these bonds. These bonds were not an obligation, direct or otherwise, for the City of Omaha and, therefore, had no threat on the City's triple-A bond rating at that time.

We paid those bonds off in 1987, and there was considerable effort that we did that but, nevertheless, we got them paid off. So, from '87 to '97, we continued to invest some one point three (1.3) million dollars in the marina from excess marina revenue funds.

In 1997, we were approached by voters again to expand the marina, upgrade the

NIKSICK 63

1 facilities. After careful deliberations, we
2 issued an additional one point two five (1.25)
3 million dollars worth of revenue bonds, exactly
4 the same things we did when we created the
5 marina.
6 These are a direct obligation of the
7 marina. They have nothing to do with the City of
8 Omaha. And again, have nothing to do with the
9 City's triple-A bond rating. It must be paid
10 from revenue from the marina itself.
11 Currently, we have nine hundred and
12 eighty-five thousand dollars ($985,000) still on
13 the books and due.
14 Now, depending upon which plan the
15 Corps chooses here, if you choose a plan where
16 the river levels are so low -- now, in our
17 particular case at the end of each boating season
18 we dam up our channel to the river and float our
19 dock system and preserve it during the river
20 months when the river is low.
21 Now, depending upon which plan you
22 choose here, if the plan chosen and the river
23 level is so low, we simply will not take out the
24 dam because we will not be able to float our dock
25 system. If the plan you choose is to close that,

Rec 23

NIKSICK 64

1 we could open the marina, that we would be -- we
2 would seriously have to consider a major whole
3 dredging of the marina. That would put us in
4 jeopardy, inasmuch as we already have a
5 substantial debt on the books. And a full
6 dredging of the marina, in a conservative
7 estimate, would be four (4-) to five hundred
8 thousand dollars ($500,000).
9 Now, even if we could dodge those
10 two bullets, by the fact that you're going to
11 have a spring rise that is billed to be every
12 three years, it could be every two years and a
13 couple of years lay off, it's very irregular, but
14 the mere fact that you have a spring rise calls
15 into question whether we would even spend four
16 (4-) or five hundred thousand dollars ($500,000)
17 on a full dredging. It doesn't address the issue
18 at all of what other cost in just annual
19 maintenance, not a full dredging, just for a
20 normal annual maintenance for the year-to-year
21 opening of this marina.
22 So, we're in serious jeopardy here.
23 We would hope that whatever plan the Corps
24 chooses here that it doesn't endanger any
25 wildlife or water foul or any marinas.

Rec 27

ROBERTSON 65

Thank you very much.

MR. CIESLIK: Rob Robertson?

MR. ROBERTSON: Thank you. My name is Rob Robertson. I'm Vice President of Governmental Relations for the Nebraska Farm Bureau Federation, the state's largest farm organization.

Nebraska Farm Bureau is strongly opposed to proposals that contain spring rise and low summertime flows. The impacts these proposals would have on farmers along the river would be devastating due to additional flooding and inland drainage problems.

FC 8
IntD 8

In addition, the low summer flow would prevent season-long commercial navigation on the Missouri, which is important for our export markets and important for our prices at local elevators.

Nav 12

To emphasize this impact that the spring rise would have on farmers, I just received an unsolicited e-mail this morning on my computer from a farmer near Rulo, Nebraska, and I quote: "We farm along the Missouri and Nemaha Rivers in Southeast Nebraska. High river levels make it impossible to sleep for days with the

ROBERTSON 66

stress and worries of losing our crops and not being able to take care of our family's financial needs. Mother Nature causes that often enough without someone from outside our farms and communities that have nothing to lose trying to change something they know nothing about. The dams and levees were put there for one purpose and that is flood protection.

Any person that thinks a spring rise on my farm is such a good idea should stop and think about me wanting a spring rise that would flood their house, or flood their job, flood their work place, stop their income for one whole year and watch the tears of fear and sadness running down the faces of their sons and daughters and their wives, as they are now running down my face as I write this letter. And that's the end of his quote.

FC 8

That's who we represent along the river.

Since 1960, I know the Corps has managed the river and the six dams to meet the goals outlined by Congress. It's not an easy task, but we believe the Current Water Control Program in operation now is the best alternative.

ROBERTSON 67

People want to change the balance and we believe such changes upset the balance the Corps is seeking to achieve and very likely reduce the benefits of flood control, navigation, hydropower we all come to rely on.

Recently the Missouri River Basin Association has endorsed a ten (10) trial period of higher spring flows and lower summertime flows. While we realize the emphasis of this proposal is on flexibility, monitoring, evaluation procedures during the demonstration period, ten (10) years is a very long time any way you look at it, especially from a farmer's perspective, who could be flooded every year.

Farmers tend to develop solutions in a plain and simple way and maybe we're making the management of the Missouri River too complicated. It would seem logical to us that some efforts should be made to establish a biological baseline to adequately assess where we are now in terms of the conditions of the situation of protected species of concern. Things do change.

For example, the International Piping Plover census found that Plover numbers have increased four hundred and seventy (470)

EnSp 27

ROBERTSON 68

percent along the Missouri River the past five years and now over a thousand (1,000) Plovers are found there.

EnSp 27 (con't)

If it's determined that more habitat is needed along the Missouri River for certain species modifications, it should be examined first to improve existing habitat by pursuing more enhancements of oxbow lakes, wetlands and other natural habitats along the river and the reservoirs. We believe that landowners would support this if it's on a voluntary and incentive-based approach.

WRH 6
EnSp 26

If it's determined more is needed to be done to improve the habitat, perhaps some changes should be examined within the framework of the Current Water Control Plan.

Nevertheless, future management decisions for the river should not ignore the primary purpose of the mainstream dam system of flood control and other important benefits it provides. Moreover, these decisions should not threaten the people and communities along the river and they should not forget and place undue harm on individual farmers along the river who are part of the foundation of their nation's food

Other 6, 48

and fiber system.

Again, we support the Current Water Control Plan, and I have a statement that I will submit for you.

Thank you.

MR. CIESLIK: Carl Jones?

MR. JONES: I'm Carl Jones, 2240 South 46th, Lincoln, Nebraska, and I represent myself and the River Rats Reunion out of Brownville.

We've been talking about the Missouri River and I'm looking at a couple of things.

Habitat; the Corps has done a lot in recent years in the way of mitigation on the river. We've seen improvement in the fish populations and I think that when we look at habitat, if you are a house owner, you know, and you want Wrens in your backyard, you don't put in a Martin house, you put in a Wren house. If you want Martins, you put in a Martin house, right?

If you want Sturgeons on the river, you've got to put in a Sturgeon house.

EnSp 5,26

I don't think that a spring rise, as the Fish and Wildlife, you know, in their best

available science, whatever that is, says is needed. Mother Nature's provided plenty of spring rises.

EnSp 5,26

What is needed is, like down in Missouri, the situation where you have pebbles in the river, in a stream, good current and below that some died water with the nutrients that the Sturgeons need.

It worked down there. We have several places up here where the mitigation chutes started. Some of those probably developed enough that they could produce the same kind of habitat for the Sturgeon. It would eliminate that need for the spring rise.

Fish and Wildlife, you know, they like to sport fish and they use to define all the native fishes trash fish. So, you know, trash fish was whatever was native, the catfish, the Carp and some of those other varieties.

Fish 14

So, they have made no attempt now to let spawning of river fish in places like DeSoto Bend. Maybe we need to relook at that and the Fish and Wildlife needs to relook at that situation and I think that's some of the things that I've been looking at as we've been talking

about the Missouri River and improving habitat, improving fish populations.

You know, we just heard that there's a lot more of the birds nesting between Gavins Point and, say, down at Ponca. There were less of them in some of the other places that had population. If we'd create a place for them to nest closer to their winter quarters, Texas and the coast, they're going to, you know, take the easiest route, stop at the first nesting place they see, whether it's on the Arkansas River, the Kansas, the Platte, Niobrara, the Missouri, wherever they go on north, clear up into Canada.

EnSp 28

So, I think that's kind of where we stand. We need to look at these things that the Fish and Wildlife people have suggested.

They don't have the kinds of scientists they had twenty-five (25), thirty (30) years ago. They've come down to just fish people, so whatever they say about birds, you know, they're not based on bird sciences and they're in-house, they're from other areas.

I think that covers what I would like to say tonight. We appreciate the opportunity to testify to tonight.

MR. CIESLIK: Clyde Anderson?

MR. ANDERSON: Good evening. I'm Clyde Anderson. I live at 7020 Burt Street, in Omaha, Nebraska. I am chair of the Nebraska Chapter Sierra Club.

Sierra Club supports the Variable Flow, Flexible Flow Alternative Master Plan because it is the closest to meeting our goals, as defined in our policy for the Missouri River Management.

A copy of this policy is attached to my written statement and is available to the public on the Nebraska Sierra Club website.

The Sierra Club sponsors outings on the Missouri River. I have been on many segments of the river, including the entire hundred ninety-seven (197) mile stretch from Boonville to the confluence of the Mississippi River.

Statements have been made, published that the Flexible Flow Plan will harm recreation boating on the river. Perhaps this is true for a few of the largest boats, but low flows are not a problem for the majority of recreationists who use shallow-draft boats. Small boat users like us welcome the lower flows that would occur

Rec 10, 29

ANDERSON 73

during part of the summer under the Flexible Flow Alternative. Lower flows not only make recreation safer, but also expose sand and gravel bars, which are normally submerged during the navigation season, for picnicking, camping or just observing wildlife. Most of us with shallow-draft boats use public boat ramps and these ramps are generally usable at all river levels.

Rec 29

Mr. Niksick mentioned earlier NP Dodge Park, the adjustments they make to keep the facility with water with that dam.

Rec 27,35

We were up there this past Saturday, with the mild winter, and there were a lot of trailers there, boaters out. I think a lot of them were fishing but we were out watching Eagles. So, there is a lot of use for the river even during the winter months.

The river level, at this point, during the four (4) months of the winter is lower than what's proposed during the low-level flow during the summer months.

Many farmers and agricultural associations object to the Flexible Flow Alternative because of the eight (8) week

ANDERSON 74

cessation of navigation during mid-summer would have an adverse impact on shipment of food and farm products. We believe this impact will be minimal. Only seven hundred and thirty thousand (730,000) tons of food and farm products moved on the Missouri River in 1999. This amounts to less than one-half (1/2) of one (1) percent of the quantity of these products produced in Iowa, Nebraska, Kansas and Missouri.

Nav 31, 7, 61

Commercial navigation on the Missouri River provides minimal, if any, benefits to shippers of farm products. No growth is forecast for this traffic on the river for several reasons. First, the depressed volumes of U.S. grain exports, the only bright spot is the growth and grain exported to Mexico and this primarily moves by truck and rail.

Second, the increased use of farm products locally for making ethanol, sweeteners, oils is also drawing a lot of this traffic away from long-haul movements.

The Cargill-Dow at Blair, Nebraska, is even making plastic out of corn.

Also, the huge growth in factory farming means much more grain is consumed locally

ASBURY 75

to feed livestock, hogs and poultry. These short-haul grain shipments move mostly by truck. The meat being produced is shipped nationally and internationally and again mostly by truck. Barges aren't the only ones hurt by these market changes. Railroads are hauling a lot less grain, too. You just look over here in Council Bluffs and you'll see hundreds of empty, covered hopper cars, many of them haven't had a load in over five years.

For the past seventy (70) years, the Missouri River has been managed in a manner to promote commercial navigation at the expense of many other users, especially wildlife and recreation.

The Sierra Club believes the Variable Flow Alternative is an excellent compromise management plan.

Thank you.

MR. CIESLIK: Randy Asbury?

MR. ASBURY: Good evening, Colonel.

My name is Randy Asbury and I'm Executive Director of the Coalition to Protect the Missouri River.

The remarks I will be providing

ASBURY 76

tonight in regard to hydropower energy impacts have been provided by John Pozzo of Ameren.

In the Revised Draft Environmental Impact Statement the Corps evaluated the impact of the various flow alternatives on hydropower energy production.

Tonight I would like to call to the attention of the good citizens of Iowa and Nebraska the potential impacts of the reduced summer flows on their cost of electric service if certain flow alternatives are selected by the Corps.

The Western Area Power Administration markets and delivers reliable low-cost hydroelectric power within a fifteen (15) state region of the Central and Western United States. The Power Administration derives a portion of its energy production from the six dams of hydropower facilities located on the upper Missouri River. Electricity generated by these facilities is marketed to rural cooperatives, municipalities, public utility districts, irrigation districts, native American tribes and federal and state agencies. If insufficient amounts of electricity are generated

ASBURY 77

within the Power Administration, energy would be purchased from other sources to meet customer demand.

The amount of electricity generated by any hydropower facility is dependent upon the amount of water passing through the turbine generators at the dam. Less water flowing through a dam creates less electricity production. Less electricity production creates the need to secure power from other sources. Since hydroelectric plants are the most economical means of producing electricity, the acquisition of power from other sources, such as coal, oil, gas or nuclear power plants will come at a cost premium.

The four (4) Gavins Point plans proposed by the Corps all have significantly lower summer flows than the Current Water Control Plan. This lower summer river flow comes at a time when demand for electricity is typically at its highest. Because of the high demand for energy during the summer and the limited availability of excess power, the price of purchased power is also at its highest.

The upper Great Plains Region of the

HPower 18

ASBURY 78

Power Administration calculated revenue impacts of the Current Water Control Plan and the Gavins Point options to assess the potential impact to their customers. The analysis revealed that electric rates would increase on any proposed Gavins Point plan due to reduced generation from lower summer flows and the need to purchase more expensive power from outside sources.

With the Gavins Point 1521 plan, the Power Administration estimates a twenty-one (21) percent increase in purchase power cost for customers that receive seventy (70) to one-hundred (100) percent of their power from the Administration and a twelve (12) percent increase in purchase power cost for customers that receive forty (40) to seventy (70) percent of their power from the Administration.

Although I will not take the time to identify the customers in Iowa and Nebraska, as was done earlier, I have provided a complete customer list as part of my written comments.

Most everyone acknowledges that the Missouri River needs change. The contentiousness of this issue, however, revolves around whether the Fish and Wildlife Service recommendations

HPower 18, 11

ASBURY 79

will actually benefit anything or if it's even needed for certain species.

Fish and Wildlife Service demands a more natural hydrograph, i.e., spring rise for the Piping Plover and Least Tern. Research completed by the Missouri River Technical Committee termed this assumption unfounded. They report, quote, "The timing of the spring rise in the brooding and mating season very nearly coincide. The proposed U.S. Fish and Wildlife Service spring rise once every three years during June, like the natural spring rise, will flood the sandbar and habitat for the Least Tern and Piping Plover at a time they are mating and nesting. Accordingly, the natural hydrograph is not the best type of graph for the Least Tern and Piping Plover. This contradicts the Fish and Wildlife's basic assumption on which they do devise the flow modification scheme."

EnSp 53

The Environmental News Service, on January 25th, stated that the USGS estimates in their 2001 International Piping Plover Census show that Plover population has increased four hundred seventy (470) percent in five (5) years and a hundred and forty (140) percent in the

EnSp 27,50

ASBURY 80

decade along the Missouri River. This increase has occurred under the Current Water Control Plan. The December, 2000 Biological Opinion states its Plover recommendations were based on, quote, "a substantial decline in population number," unquote.

EnSp 27,50 Con't

The Current Water Control Plan has benefited the Plover; therefore, we request that formal consultation be reinitiated on the Biological Opinion as it relates to this new information about the Plover population.

My last comment with regards to the role of, or the lack thereof, of MRBA, Missouri River Basin Association, in representing the states' interests.

In their last vote in the Gavins Point 1528, it was six (6) to two (2), with Iowa and Missouri opposed to flow modifications. The populations of Missouri and Iowa is greater than for all other six states combined.

Other 164

I ask the Corps to keep in mind that the people did speak. We contend that MRBA doesn't represent or characterize state positions in an appropriate manner and uses their voice and position to skew recommendations. Therefore, we

SMITH 81

1 question the need for Missouri or Iowa to
2 participate in this biased organization any
3 longer.
4 Thank you, Colonel, for the
5 opportunity to speak.
6 MR. CIESLIK: Chad Smith?
7 MR. SMITH: Thank you, Colonel.
8 My name is Chad Smith. I live in
9 Lincoln, Nebraska. I'm the Nebraska Field Office
10 Director for the River Conservation Group,
11 American Rivers.
12 On January 9th, the National Academy
13 of Sciences released its report on the Missouri
14 River entitled "Missouri River Ecosystem:
15 Exploring the Prospects for Recovery." The
16 conclusions of that report were definitive; that
17 the Missouri River Ecosystem is degrading, that
18 enough data exists to take action and that we
19 should get busy.
20 That report puts to rest the claim
21 that science does not support restoring more
22 natural flows to the river. The proper
23 discussion is no longer if flow changes should be
24 made, but instead how we go about it.
25 The U.S. Fish and Wildlife Service

Other 14

SMITH 82

1 has provided recommendations for a starting point
2 in its Final Biological Opinion, and you, the
3 Corps, has used those recommendations to develop
4 several dam operation alternatives that would
5 restore, in a modest way, some portion of the
6 Missouri's natural flow. None of them are the
7 silver bullet solution, but they certainly point
8 us in the right direction.
9 The conservation community continues
10 to support the Flexible Flow Alternative
11 identified by you as GP2021. It is the only
12 alternative now on the table that fully captures
13 the science-based recommendations of the Fish and
14 Wildlife Service. It would give you the
15 flexibility to restore more natural flows on the
16 Missouri, an action that scientists with the Fish
17 and Wildlife Service, the Missouri River Natural
18 Resources Committee and the National Academy of
19 Sciences, just to name a few, all recognize as a
20 priority action that must be taken to help the
21 Missouri River stop its slide or collapse.
22 Last week, six states in the
23 Missouri River Basin Association weighed in on
24 this issue. Reflecting on the Biological Opinion
25 and the National Academy of Sciences' report, the

Other 7

Other A, 56, 61

SMITH 83

1 basin states of Kansas, Nebraska, Wyoming, South
2 Dakota, North Dakota and Montana all formally
3 recommended to the Corps that they begin
4 implementing a plan of experimental test flows
5 out of Gavins Point Dam. That is a major
6 breakthrough, and hopefully it signals to
7 decision-makers both inside and outside the basin
8 that the status quo will no longer suffice.
9 These six states provide you with
10 the possible starting point from which you can
11 work your way toward the Flexible Flow
12 Alternative and begin the process to restoring
13 the health of this most historic river system.
14 Modest flow changes alone will not restore the
15 Missouri River, but flow changes must be a part
16 of any restoration plan for the Missouri.
17 Ignoring this fact and delaying action is simply
18 not an option.
19 Flow changes on the Missouri will
20 not be without impact. We need to focus on how
21 extensive these impacts will be, how we best
22 monitor and account for these high impacts and
23 how we minimize or eliminate the cost various
24 river users bear as we make changes on the river.
25 We cannot ignore the fact that there

Other A

Other 23, 83

SMITH 84

1 will be impacts, but we cannot let such impacts
2 stop us from moving forward. All river interests
3 have to work together to come up with a plan to
4 deal with those impacts, utilizing the tools of
5 mitigation and compensation. It won't be easy
6 and in some ways it might be unprecedented, but
7 it can be done and it must be done. Nobody
8 should have to bear the burden alone of bringing
9 this great river system back to health.
10 However, we should also not fail to
11 recognize the benefits of a restored Missouri
12 River. Healthy populations of native fish and
13 wildlife are important, but consider the
14 tremendous benefits of increased opportunities
15 for recreation and tourism. A healthy Missouri
16 River will be a much better attraction for those
17 that want to fish from its banks, picnic on its
18 sandbars, hike along its course, and boat on its
19 water.
20 There's no question that there is
21 recreation on the Missouri River, on the
22 Nebraska/Iowa border, but it is nowhere what it
23 could be and many are prevented from using and
24 enjoying the river at all. We are all missing
25 out on the tremendous economic benefits that a

Other 70, 83, 218

Rec 10

healthy Missouri River could bring.

For example, the Missouri River also runs through the City of Bismarck, North Dakota. There the river is wide, the river is shallow, there are sandbars and islands and the river level's move up and down. I urge everyone here to visit Bismarck on any summer day and you will notice several times more, many people on the river as there are at the same time in Council Bluffs and Omaha. Big power boats, jet skis, canoeists, anglers, kids swimming on sandbars and dozens of other river activities. Several marinas operate continuously throughout the summer and are adapted to fluctuating river levels. There is even a large excursion paddle-wheeler that operates on the river in Bismarck, taking large groups of people for slow cruises on the river.

So, it's obvious that a restored and healthy Missouri River holds enormous economic potential, we just need the leaders and agencies like the Corps to let us tap into that potential and to let us make a broader vision for the Missouri a reality. With a little elbow grease we can make the Missouri River truly a better

Rec 15

asset for Council Bluffs, Omaha and every community along its length.

This approach makes not only good environmental sense, but also good economic sense.

We do enjoy many benefits of the Missouri River System as it is now managed, like flood control and hydropower, but we also bear the burden of a river system that is in a sad state of decline.

We can have our flood control, our hydropower and our floodplain farming, but at the same time we can also have better fishing, better hunting and a healthy river.

As you finalize your plans for reforming how you manage the Missouri, we urge you to consider the leadership role you have before you. You have the opportunity to help us come together to restore and revitalize the river system that cuts through the heart of this basin and this station. Please seize that role.

Thank you.

MR. CIESLIK: Don Jorgensen?

MR. JORGENSEN: Hello. My name is Don Jorgensen. I'm a stakeholder from South

Dakota. I live at 33599 479th Avenue, Jefferson, South Dakota, and that makes me a rural resident along the Missouri River.

I'd like to talk about two concepts tonight.

We've been told that U.S. Fish and Wildlife says that spring rise is necessary to cure all ills, or basically all ills, from Sturgeon, to Terns, to Plovers, to all wildlife. This is the time, post-concept, of a gentleman named Bill K. Junk and it's very popular in the biologic world today. But we need to consider several things in doing that. And one is that a pulse or a flood of water, in itself, will not result in an increase in the biologic activity of the river at all. We need nutrients and we need habitat.

EnSp 38,5

So the bottom line is this pulse, especially in the channelized river, will not have the shoreline for the so-called aquatic ATLD, meaning an Aquatic Transit Littoral Zone, okay, which Junk says is required to get the carbon into the system. It will fail in the channelized river.

In implementing the spring rise, it

will not cure the biologic ills of the river.

So, at this time, I would -- unless it's accomplished in a joint effort, I would not do it.

I'd like to comment about recreational activity on the Missouri River. Now all I can comment is on where I live and I live near Ponca and that's the difference between the channelized and unchannelized river. I go to boat. I love boating. But, I can say that the channelized river has probably five (5) to ten (10) times as much recreation as the unchannelized. This is just my observation at Mile Seven Forty-Seven (747) on the Missouri River.

Rec 27, 35

The last thing I would like to address is predator fish control. The National Academy of Science says in many reaches of the river non-eating fish, sport fish exist in greater abundance than the native species. The non-native fish may also contribute to the declining abundance of native fish.

Fish 14

I could read other quotes from other sources. My point of bringing this up is why is this not part of any plan or alternative

management for the Missouri River? I would suggest that any management plan include this.

Those are the only items I wish to speak on tonight.

I thank you for the opportunity.

MR. CIESLIK: Dave Sands?

MR. SANDS: Good evening, Colonel.

My name is Dave Sands. I reside in and near Lincoln, Nebraska, and I'm here tonight representing Audubon Nebraska, which is the state office of the National Audubon Society.

A few days ago I testified at a hearing on efforts to comply with the Endangered Species Act on the central Platte River. While it's a much different river, with different issues, there's some striking similarities.

Both rivers are extremely important for wildlife. There is a resistance to a change in management, as both rivers are vital to the economic health of those who live along their banks. Making a first step toward more balanced approach has also been a long and expensive process. On the Platte, that first step was a relicensing of Kingsley Dam and it took thirteen (13) years. Efforts on the Missouri has broken

this dubious distinction by taking nearly fifteen (15) years and we're still counting. Now with the recent position taken by the Missouri River Basin Association there could be one more very important similarity. A goal to create a management plan that begins to restore the ecosystem for wildlife, while minimizing any adverse consequences for people.

With the latest report from the National Academy of Sciences, there should be no question about the need for change. It is probably the strongest indication to date that the Corps must change management to comply with the ESA. The release of this report offers the Corps a perfect opportunity to agree that the best science available indicates that a change is needed.

Other 14, 22

In doing so, the Corps would be in good company, as the MRBA has essentially stated the same position, breaking with its past history of supporting the status quo. The significance of this change should not be minimized, as it opens the door to a measure of consensus. It would start the river down the road to recovery. At the same time, it would do so in careful,

SANDS 91

measured steps to ensure that we are benefiting wildlife, while also considering the needs of people.

In some ways, the proposal from the MRBA represents the future of ESA compliance. It is built upon adaptive management, which recognizes that current science is only a snapshot in time. And as our knowledge of the river improves, so can our management.

Other 10, 61

The proposal also calls for stakeholder involvement, which should be at the top of any conservation agenda. Finally, it offers realistic goals that are to be achieved during a prescribed period of time.

While the MRBA proposal does not offer everything everybody wanted on either side, it does offer an historic opportunity for everybody to start working together. Please seize this opportunity so that the Missouri and Platte Rivers can have one more thing in common, a stakeholder-driven recovery program focused on good science and crafted to reduce economic conflicts.

Other 61

Thank you.

MR. CIESLIK: Jim Whiting?

WHITING 92

MR. WHITING: Thanks for the opportunity to say a few words for the record.

I am Jim Whiting, from Whiting, Iowa. Address, 230B Shannon Drive.

I'm an 80-plus year resident of Missouri Valley who remembers the '52 flood very well. Also, I'm up well past my bedtime, so I won't last long.

Also I have been designated as a representative of the Monona County Board of Supervisors, 610 Iowa Avenue, Onawa, Iowa, and they've already submitted a resolution for the record.

Monona County's western boundary, border, is the Missouri River. The Board of Supervisors is trustee for fifty-four (54) legally constituted drainage districts. Also in our county there are thirty (30) districts who have their own elected governance boards, in addition to the other fifty-four (54) districts. Of the four hundred and forty-six thousand (446,000) acres in Monona County, two hundred and seventy-eight thousand (278,000) are in drainage districts. Increased spring releases from Gavins Point would further compound their problems by

FC 8

WHITING 93

backing up drainage.

Isn't the prime purpose of the Pick-Sloane Plan flood control? At least I thought it was, from the last, the day I flew up to Oahe to see the dam flows.

Anyway, the flood control has certainly enhanced the development.

One of the facts overlooked is the U.S. population. Talk about Lewis and Clark, we want it like that. Well, in those days there was five million (5,000,000) in the population of the United States, in 1800. Currently, the 2000 census, two hundred and eighty million (280.000.000). That's five hundred and sixty (560) people today for each one in 1800.

We want to upset the infrastructure that makes this possible. I think that's one thing that is widely overlooked. You have so many people that we just can't have things like we want them and they used to be.

I've seen a lot of outsiders, like Ms. Ragsdale, Des Moines Register, editorial writer, think they're experts because they have driven through the valley and could give us direction on how we ought to live here.

FC 8 (Con't)

WHITING 94

Considering Pick-Sloane and Lewis and Clark, development of the Louisiana Purchase, a spring rise and a low summer flow are a scenario for disaster for a presently highly workable system. By putting water in basements, adding to construction costs, which I'm involved in another development corporation up home, and we had some water in basements.

GW 11

Let's see, I've got two minutes, I better speed it up.

By putting water in basements, adding to construction costs and reducing electric power production in peak demand periods, possible increase in shipping costs if we lose water compelled rates, putting out of business a highly developed recreation industry, boats and marinas, and further degradation of the channel by increased spring flows.

HPower 12

Nav 8, 6

Rec 10

ErSd - 18

Iowa's had a problem when only our DNR with their tunnel vision was dictating this scenario. The people directly involved have changed that by getting a broader input.

As you heard tonight, the legislation has been passed. There's other input besides DNR.

I sense the same is going on in other areas, when I read the submission of the Papio/Missouri River Natural Resource District and hear comments made tonight.

All of these things, plus the report of the National Academy of Science lead me to be very skeptical of what I see in the summary of the Missouri River Revised Draft Environmental Impact Statement. Also, I have heard nothing about the effect of changing things to maybe save three (3) species when in a normal year about a hundred (100) species disappear. And the Director of Fish and Wildlife Service that stood up in Denver, I think, the last day of January, and said he wasn't at all sure this would really help.

Now, why should we do anything unless we know where we're going and we have something that works?

Do we really want the dinosaur and the three-toed horse back and mountain lions and bears? Saving the listed species could cause more problems than one could imagine. In my lifetime I've seen deer increase from near extinction to becoming a problem. Same with the

EnSp 4,7,28

Canadian geese. Now we have wild turkeys that cause havoc in some areas. Nature adapts.

As I said, I was speaking for the Monona County Board of Supervisors and they want in the record stating the listed species that will extinct, one of much greater importance to them, the local property taxpayer.

Thank you.

MR. CIESLIK: Bill Beacom?

MR. BEACOM: My name is Bill Beacom. I live in Sioux City, Iowa, 2423 Jackson, and I'm not a bit partisan, I'm a barge captain.

I'm going to read you a letter that I just had published in the Sioux City Journal this morning as kind of a lead in. It's called "The Spring Rise."

The U.S. Fish and Wildlife Service claims to have enough scientific data to not only justify, but make necessary a change in the Missouri River hydrograph. This change is supposed to aid the recovery effort of the Pallid Sturgeon, Least Tern, and Piping Plover. Common sense could tell anyone with the basic knowledge of this situation, it's not true.

The U.S. Fish and Wildlife says the

BEACOM 97

spring rise may cue the spawning of the Pallid, but there's convincing evidence available to show the Pallid's already being cued and that cue is the water temperature of sixty-five (65) degrees. There is also evidence that the Pallid does not spawn in the mainstream of the Missouri, but goes up into the tributaries. This take place in the month of May. Tarleton H. Bean, author of Fishes of Iowa, Report of the State Fish Commission, 1892-93 states: "Nothing is recorded of its habits, except it runs up into the small streams in May for the purpose of spawning."

EnSp 5,37

So all of the hoopla about cuing the Pallid Sturgeon's nonsense. Any attempt to changing the hydrograph in May will affect water temperature and defeat this natural reproduction cycle, which is already taking place.

EnSp 5

The Piping Plover and the Least Tern: Although the Piping Plover never successfully used the Missouri River for nesting prior to the building of the dams because of the day-to-day fluctuations of the river, they have readily adapted to the consistent flows afforded by the current operation of Gavins Point. The spring rise will be a disaster for them, because

EnSp 53

BEACOM 98

of their need to nest just inches above the waterline, coupled with their arrival in late April and early May, which means they will have laid their eggs just before the spring rise. The Least Tern will face the same plight. What happens to them then?

EnSp 53 (Con't)

Let's return to the Pallid Sturgeon. Presume for a moment that in spite of the spring rise they were successful in getting their eggs laid. These larvae will eventually move into the mainstem of the river. But wait, just about the time they get comfortable the summer drawdown occurs. Summer drawdown, that means they get drawn down, eaten up by the birds that are left.

EnSp 64

This overview should convince any reasonable person that the spring rise and summer drawdown has problems. But, there is more. U.S. Fish and Wildlife Service says it's necessary to recreate the natural hydrograph. But, is it natural?

Let me present an analogy to show you the answer to that question is a resounding no.

We all know what mom's beef stew is and what constitutes the ingredients. We need

beef, vegetables, seasoning and water. Does anybody really believe you could put a bowl of cold water in front of mom and she would agree it's beef stew? This is exactly what U.S. Fish and Wildlife is asking. They have a spring rise with no carbon, no sediment, no humus and they are trying to say it's a natural hydrograph. Mom wasn't fooled on playing cold water being stew and that other mom, Mother Nature, is not going to be fooled, either.

EnSp 7,38

There's more than seventeen hundred (1700) miles or more above Sioux City. The introduction of non-native game fish above Gavins Point has wreaked havoc with a vast majority of these species. According to the NAS Report, fifty-one (51) native species are losing numbers. And there's convincing evidence that they are getting eaten.

Fish 14,21

The Sturgeon Chub and the Sicklefin Chub were listed for endangered species, but the Fish and Wildlife Service said, well, that's the reason they're endangered. You guys are putting fish in that are eating them.

One thing that everybody knows, barges aren't above Gavins and barges don't eat

fish, only game fish do. And this is the biggest threat to native species. Yet, American Rivers has aligned itself with American Sportfishing Association. It's way past time that the Sierra Club, the Audubon Society and the Nature Conservancy start looking at what their really interests are, instead of what they think their interests are.

Now, let's talk about the NAS Report. Does anybody understand what the word "moratorium" is? Does it mean they endorsed anybody?

Other 46

No, they didn't endorse anything. They said "moratorium." That means stop, until you get some science.

The baseline science does not exist, but I have seen plenty of science here and that's sound science is what I call it, when the environmentalists say that if you pay for it, we're for it. That's sound science in anybody's language.

COLONEL UBBELOHDE: We've been going at this for about two hours. I'd like to take a fifteen (15) minute break.

(Whereupon, a short recess was had.)

COLONEL UBBELOHDE: I'd like to get started again.

MR. CIESLIK: Duane Hovorka?

MR. HOVORKA: Good evening.

I'm Duane Hovorka, Executive Director of the Nebraska Wildlife Federation. I'm also testifying on behalf of the National Wildlife Federation, the nation's largest, member-supported conservation organization.

The National Wildlife Federation will be submitting written comments. The Nebraska Wildlife Federation has previously submitted testimony and my testimony today supplements, but does not replace the comments that we submitted earlier. We make just a few key points tonight.

First, I'd like to thank Roger Patterson and the folks at the Nebraska Department of Natural Resources for their work to bring together the states in the basin in support of an alternative that would begin to test the impact of a slight spring rise in the river. The fact that most of the states are recognizing the need to make changes in the flow is a very important step. And I think their efforts

deserve our thanks.

Second, while the current discussion centers on the flow issues on a portion of the Missouri River below the Gavins Point Dam, we should not lose sight of the many positive changes that were included in the draft rewrite of the Missouri River Master Manual. Especially, with respect to the management of the river upstream from Gavins Point.

Third, while the current debate centers on flow issue, we should all recognize the need for habitat restoration and protection measures throughout the basin. And much of that work is outside the jurisdiction of the Missouri River Master Manual. The Big Muddy Refuge and other efforts to create a "string of pearls" along the Missouri, to begin to restore the side channels, backwaters and wetland complexes that we've destroyed is vitally needed as part of the restoration effort.

WRH 6
EnSp 26

We cannot rely solely on those habitat restoration and protection efforts, because there's still a need for the spawning cues and other benefits provided by the more natural river flow pattern. Likewise, we cannot

EnSp 26,5

HOVORKA 103

rely solely in changes in the river flow under the Master Manual, because the spawning cues will not be effective unless spawning habitat is available. The two have to go hand-in-hand.

EnSp 26,5 (con't)

Fourth, I think you need to ask yourself, as you rewrite the Master Manual, what is the signal that we're sending?

Other 7

If you refuse to make changes in the flow patterns on the lower Missouri, you tell people, the U.S. Government is standing pat. You tell landowners along the river, like your utilities and industries that depend upon the river for cooling water, the marina owners along the river, the barge industry and others that they don't have to change. You send a clear message that they can continue to do what they're doing and you tell people who would invest their dollars in hunting and fishing businesses to take their money someplace else.

And if you do that, ten (10) years from now things will only be worse. The species on the decline will continue to decline. The people who live along the river will have made few changes. The fishing, hunting and wildlife recreation industries will not invest and you

HOVORKA 104

will likely have even more industries, even more power plants and even more marinas built along the river that are designed to be reliant on the current flow regime. In ten (10) years from now the solutions will be even harder and more expensive.

Other 7, 23

It seems clear to us that change is needed. The biology becomes clearer every day. The economic benefits and changes up to the Missouri's flows become clearer every day. And if you fail to send a clear message to people throughout the basin that change is coming, then you've failed not just the river, itself, but the people on all sides of these issues.

EnSp 3

Our problems with the alternatives put forth by the Missouri River Basin Association is based on at least two (2) important counts.

First, it falls short of what is clearly needed to meet the minimum needs of fish and wildlife. The Fish and Wildlife Service and our own biologists have articulated those minimum needs and urge you to adopt a plan that meets the species' needs that have been identified.

Second, it fails because it sends the wrong message. It sends the message that the

Corps is going to stand pat, stick with the current plan, and only engage in short-term tests of the different flow regime. It may be a feel-good message that people want to hear, but the people who are impacted need better from you, they need the truth.

The truth is that the river's flows have to change and ultimately they are going to change. People need to start planning now for that change.

EnSp 3 (con't)

Fifth, we cannot afford delay. We urge you to work quickly to bring this Master Manual rewrite to a close, so that the changes can begin to take place as soon as possible. We may not know everything about the biology or economics of the river, but we know enough. We need to continue to monitor and research the Missouri because we cannot delay any further the start of making needed changes.

Other 119, 204

And one final point, for about a hundred and seventy (170) years we've molded the Missouri River to fit people. We've swung the pendulum just about as far as we can to the side of agriculture and power production and the barge industry and it has come at the expense of the

fish and wildlife in the basin and the people connected to fish and wildlife.

We're not asking for a return to 1804, to the Lewis and Clark river. We're not even asking that you balance the needs of people and wildlife. What we're asking for and indeed what the endangered species calls for is only the bare minimum. The bare minimum needed to prevent these imperiled species that we've driven to the brink of extinction from falling to extinction.

Other A, 178

Unfortunately, in our view, the bare minimum is all we're talking about here. Where changes in the river flow, such as that proposed in the GP2021 option, plus restoration and protection of habitat up and down the river. We think they're good for wildlife and we think, ultimately, they're good for people throughout the basin.

Thank you.

MR. CIESLIK: Lanny Frakes?

MR. FRAKES: Good evening, Colonel.

My name is Lanny Frakes and I live at 13371 Southwest State Route KK, in Rushville, Missouri 64484, which is located in Southwestern Buchanan County near Missouri River Mile

FRAKES 107

Marker L Four Twenty-Eight (L-428).

I'm a fourth generation farmer and I've lived and farmed in the area my entire life. I'm Secretary/Treasurer of the Rushville-Sugar Lake Levee Association, which is a non-federal levee that protects approximately eight thousand (8,000) acres. I'm Secretary of the Halls Levee District, which is a federal levee unit located out southwest of St. Joseph, Missouri and protecting eighteen thousand (18,000) acres.

I'm currently on the Board of Directors representing the Missouri Levee and Drainage District Association. And I mention the above to correlate my interest in the Missouri River policy.

I thank the Corps of Engineers and your staff for conducting these hearings and allowing public comment on the Missouri River issues. I ask that the public be allowed to continue to participate in offering their comments and the subsequent review of these comments by the Corps.

Other 7, 48

I am opposed to a spring rise that is released from Gavins Point, as I believe the release of fifteen thousand (15,000) cfs to

FRAKES 108

twenty thousand (20,000) cfs from May 1 to June 15, would have the potential to create flooding problems, delayed and/or prevented planting, drown or stunted crops and internal drainage problems.

FC 8
IntD 8
GW 7

I realize the Corps would not make these releases when the lower basin river levels were at or near flood stage. My concern is for when the spring rise release has begun under acceptable guidelines and rainfall events below Gavins Point coincide with these releases.

Weather forecasting is not an exact science and are not accurate for ten (10) to eleven (11) days in advance, which is the approximate time for releases to travel from Gavins Point to St. Louis. May 1 through June 15 is historically a time frame when large rainfall events occur.

Flood control is paramount for the lower basin, with a combination of levee units being constructed and dams completed in the upper basin have led to vast improvements and expenditures being made along the lower Missouri River Basin. Cities, towns, industry, agriculture, public infrastructure and residents

FRAKES 109

are dependent on flood control as we move into the upcoming century. We must not jeopardize flood control.

The spring rise causing the higher Missouri River levels of three and-a-half (3 1/2) to four (4) feet in the spring planting season would be detrimental to our area's farmers. Flood stage at St. Joseph, Missouri, is seventeen point 0 (17.0) feet and our area begins to experience internal drainage problems at levels above thirteen (13) feet. These problems are compounded as levels rise and cause delays in planting, along with stunted crops that are caused to develop a weak-root system that develops on top of the ground due to the high ground water table levels. As the heat of the summer months rise, these crops and root systems are unable to withstand the stress of going from one extreme to the other. The spring rise followed by reduced summer flows would cause a poor growing environment. Many acres could go unplanted if the spring rise coincided with the above normal rainfall in the lower basin.

IntD 8
GW 7

Internal drainage problems are compounded as Missouri River levels rise and

FRAKES 110

local rainfall and runoff from uplands, coupled with seep water caused by the high river levels cover land on the protected side of the levee system. These high Missouri River levels do not allow for the normal discharge of internal water through drainage structures. Crop planning and growing conditions deteriorate rapidly with each day these problems persist. Stunted crops rarely recover their potential from these conditions even if they actually do survive.

IntD 8

I realize the Corps is mandated by law to protect the endangered species. The recent census presented by the U.S. Geological Scientist Susan Haig, as documented by the Environmental News Service, Ameriscan, January 25, 2002, in regard to the field data for the 2001 International Piping Plover Census denotes that Plover numbers have grown four hundred and seventy (470) percent in the last five (5) years, one hundred forty (140) percent in the past ten (10) years along the Missouri River. Miss Haig further denotes that the increase in numbers along the Missouri River might be due to recent favorable habitat conditions.

EnSp 27

The Biological Opinion states there

is a substantial decline in Plover population numbers, but the 2001 International Piping Plover Census shows a large increase in numbers under the Current Water Control Plan. I see the need for more review of this matter as these two reports are contradictory to the other.

EnSp 27 (con't)

I believe endangered species can benefit by improving habitat on the public lands in the Missouri River Basin without making flow changes. Human lives and their livelihoods must not be harmed through the enhancement of fish and wildlife habitat.

I thank you for this opportunity to express these views.

MR. CIESLIK: Susan Heathcote?

MS. HEATHCOTE: I'm Susan Heathcote and I represent the Iowa Environmental Council. We're located at 711 East Locust Street, in Des Moines, Iowa. I'm the Research Director for the Iowa Environmental Council and the Council is a coalition of seventy-eight (78) organizations in Iowa and we also have over six hundred (600) individual members of the Council, but actually our membership is quite, quite a bit larger than that, because within our coalition organizations

we represent over eighty thousand (80,000) Iowans and I'm here to speak to you about the Missouri River, because I want to make sure that you hear from the members of our organization, many of which are very concerned about the health of the Missouri River.

The Iowa Environmental Council, as a coalition, does support the Flexible Flow Alternative in the plans that have been put forward.

Other A

We see increasing flows from Gavins Point and Fort Peck Dams in the spring when water conditions permit that. And again, we understand the concerns about flooding. We certainly have had a lot of experience on what can happen during high water levels in the spring in Iowa over the last ten (10) years.

We also support the reducing the flows in the summer. We see that we need to help return the river to a semblance of its natural state. We also understand that this is not going to completely restore the river to the way it was back during Lewis and Clark's time. I mean, this, you know, is -- we understand that things have changed here and there are an awful lot of

HEATHCOTE 113

1 investments in infrastructure in the Missouri
2 River Basin and, certainly, after sitting through
3 and hearing all of the comments today, and I
4 really do appreciate everyone who came today to
5 speak about the concerns that they have and I
6 want to assure everyone that our constituents are
7 not insensitive to the concerns of the people
8 living along the river and the impact that this
9 change is going to have on landowners, farmers,
10 the cities and the infrastructure that has been
11 put in place along the Missouri River. But,
12 certainly those folks in this area need to have a
13 say in how this is going to be managed.
14 Given all of that, we believe that
15 it is very, very important that we have a healthy
16 Missouri River for the future and that during
17 times of change there is always difficulties that
18 we have to go through, but we have to keep our
19 eye on what it is we're trying to achieve and
20 hopefully we can come up with a way to compensate
21 those who will bear the cost of this change.
22 Looking at all of the alternatives,
23 and again, I appreciated the opportunity to spend
24 some time this afternoon going over the
25 information here, it is clear to me that the

Other 14, 70, 83

HEATHCOTE 114

1 GP2021 alternative provides the most benefit to
2 the biological community, including the
3 endangered species, the Pallid Sturgeon, the
4 Least Tern and the Piping Plover. We also have
5 to recognize that these three species are not all
6 of the species that would benefit from the
7 changes in the flow.
8 Certainly, we're talking about an
9 entire ecosystem here and the restoration work
10 that would need to go along with the changes in
11 the flow, within the basin, along the river, and
12 restoring habitat is all very important for a
13 healthy ecosystem.
14 We also appreciated the National
15 Academy of Science report because, again, we are
16 very concerned that what we do be science-based.
17 And it was very clear, from review of that
18 report, that a return to the natural flows on the
19 Missouri River is key to restoring the Missouri
20 River's health.
21 Also, we support the Adaptive
22 Management Approach that has been put forward in
23 this plan and we understand that we are going to
24 need to continue to review the results of the
25 changes that we make in the plan and that we need

EnSp 7

WRH 6
EnSp 26

Other 14, 56

Other 10

MUENCH 115

Other 7

to guide this process as we move forward to balance the various uses and interests of the people and the wildlife that are connected to the river.

Thank you very much for the opportunity to give these comments.

MR. CIESLIK: Lynn Muench?

Thank God I'm not following Bill Beacom.

I'm Lynn Muench, Vice President of Midcontinental office of the American Waterways Operators.

AWO represents the towboat and barge operators on America's coastal and inland waterways systems, including the Missouri, Mississippi and Illinois Rivers.

Today I'm here to articulate our industry's concerns with the alternatives presented in the RDEIS and our vision of the future.

The alternatives presented to the public are highly influenced by the U.S. Fish and Wildlife Service's Biological Opinion. AWO members are concerned that:

One (1), the scientific process used

MUENCH 116

Other 165

to reach the biological opinion is highly flawed.

Two (2), the Service has broken federal law by not designating critical habitat for the endangered species.

Three (3), the Services has admitted that it does not have any notes or proof of over thirty (30) sources listed as personal communications in the Biological Opinion. Even first year biology students understand that this is unacceptable scientific conduct.

Does anyone here think that this might be somewhat like the Tom foolery that has happened out in the west with lakes and the grizzly bear?

AWO is concerned that what the Service hopes to achieve with their recommendations is fuzzy. AWO is also concerned that it is questionable whether the recommendations are based on scientific facts or politically-influenced beliefs. AWO's concerns include:

Nav 12
EnSp 46

One (1), the split navigation season, which would destroy waterway transportation on the Missouri River and cripple it on the Mississippi River, will only increase

MUENCH 117

endangered species' habitats by a hundred and sixty-four (164) acres. According to the Missouri Department of Natural Resources, these acres could easily be created without flow changes.

Number two (2), the Missouri DNR has begun a Pallid Sturgeon breeding program. Intuitively, it appears more likely that the Sturgeons are not breeding in the wild due to their limited populations. They simply can't find each other. A breeding program would allow recovery of the species without negatively impacting navigation, power generation, water quality, historical properties or flood control.

EnSp 42,3

Number three (3), there are over two thousand (2000) miles of river, including parts of the Missouri, Mississippi and Yellow Stone Rivers, where a spring rise naturally occurs. The Pallid Sturgeon is still not increasing in population at these locations. The obvious question is, what could less than three hundred (300) more miles of spring rise do to improve their viability as a species?

EnSp 28

Four (4), the increased reservoir levels of the Modified Conservation Plan and all

MUENCH 118

Gavins Point plans will actually decrease habitat for the Piping Plover and the Interior Least Tern. Another obvious question, why should we decrease habitat already in place?

EnSp 20

Number five (5), why hasn't the Service evaluated the negative impacts on the species that are presently viable on the Missouri River, the Mississippi River and their tributaries? As a large basin-wide evaluation, negative environmental impacts that will likely occur must be considered.

Other 165

AWO members request that the Corps and the Service renew their search for a win-win solutions. As suggested by the NAS, a moratorium should be placed on this process until good scientific theory be confirmed as good science.

Other 46, 204

AWO members are very troubled that the Missouri River navigation is not properly considered due to the following flaws with the study's assumptions including:

One (1), the Corps has underestimated flow levels needed for minimum service. The Corps used flows that were needed pre-1993 flood. Over one hundred (100) dikes have not been repaired since the 1993 flood,

Nav 5

MUENCH 119

increasing the amount of flow needed by several thousand cfs.

Number two (2), the economic potential of the Missouri River is greatly underestimated. Since the 1980s, when this big debate began and the future of the navigation industry became uncertain, business on the river has moved from five (5) year contracts to spot basis, and docks and terminals have been disinvested. Why would any sane business invest in a transportation system with its future so unpredictable? The adoption of CWCP could positively impact future investment and traffic.

Nav 8

Number three (3), the Corps did not take into account the effect of water depletions in the upper basin; therefore, all data on the water available for flows to support navigation is incorrect. This negative impact on the Mississippi River navigation has not been evaluated. Using the Corps' assumptions, initial industry analysis suggest that these changes in flows from the Missouri will increase shipping costs on the Mississippi and Illinois Rivers by seven point five (7.5) to thirty (30) million per year. The Corps has yet to provide even initial

Miss 4, 26

MUENCH 120

impacts on this nationally important river system.

Number four (4), the split navigation season will eliminate barge traffic on the Missouri River, despite the Corps' optimistic tables. The Corps foresees a thirty (30) percent reduction in eight (8) months, from April 1 to December 1, on the Missouri River. Let's look at analogy. A thirty (30) percent reduction in Wal-Mart's twelve (12) month season would force closure from September 14th to December 31st. Does anyone believe this would not destroy the company's economic viability?

Nav 12

The MCP, one (1) of six (6) preferred alternatives, is also the underlying plan for the four (4) GP plans. But what is conserved? It appears the water is conserved for use in the upper basin. It is not conserved for navigation, drinking water, electrical generation or recreation in the lower basin. Where is the balanced approach the Corps and the MRBA has espoused?

Other 7, 23, 198

COLONEL UBBELOHDE: Lynn, you about done?

MS. MUENCH: Half a page.

COLONEL UBBELOHDE: Okay.

MS. MUENCH: Another major concern is Adaptive Management. This process will leave the annual operating plan open for change every year. The change will be mandated by the Service and the Corps with no public input. This is illegal under NEPA and deprives navigation of reliable flows of navigation. This will decrease or eliminate Mississippi River reliability.

Other 10

I'd like to thank the Corps for this opportunity. How we decide to balance the multiple uses of this important national treasure will indicate how much we, as a nation, value economic prosperity, the health of the family farm and our environment.

In summary, AWO endorses the CWCP without Adaptive Management.

I've also attached some information on the negative impacts on the Gulf with hypoxia with the changes of flows.

Miss 31

MR. CIESLIK: J. M. Peterson?

MR. PETERSON: Can you hear me okay?

MR. CIESLIK: Just pick the mic up.

MR. PETERSON: My name is Jim Peterson. I represent the Missouri River Bank

Stabilization Association. It's headquartered out of Newcastle, Nebraska, but I live at Vermillion, South Dakota, across the river. My address there is Poplar Avenue, Vermillion, South Dakota 57069.

I've lived along the Missouri River all my life, except for a couple of years in the service during World War II. Year-wise, I've been on the Missouri over seventy (70) years. I've boated the length of it from Three Forks, Montana to the mouth just above St. Louis and I spent a lot of years working in various projects on the river.

The Bank Stabilization Association is very much opposed to the increase in the spring flow and the summer drawdown.

ErSd - 18

Our principal objection, and this has been made known to the Corps by written documents, is based on the problem we have in permitting or saying nothing when the landowners along the river are losing substantial qualities of land.

There's a farm south of Gayville, South Dakota, when the gentleman owns it bought it, his farm was not even on the river on the

PETERSON 123

west side. Half of the farm he bought is now gone.

Above the new bridge between Vermillion and Newcastle, if you would stop there this time of year you see a massive amount of litter in the river, in the Mulberry Bend and in the lower part of the North Alabama Bend. Most of that debris has come from a very severe erosion on the North Alabama Point. The farmer there tells me that since 1980, he's lost over a section of land. Now, you figure that land is worth a thousand dollars ($1,000) an acre or more, you can see what the loss is to him, personally.

There are any number of landowners who can tell similar stories. I know the Corps has bought one landowner out with an easement, because it was better to do that, apparently, than to try to prevent the loss of land.

Well, let me put it this way: Mr. Beacom used an analogy, I'll use one, too. If I take a garden hose and I go to Mr. Sealey's home here and I proceed to wash his front yard into the gutter, the police are going to be there very quickly, and intentional

PETERSON 124

destruction of property. And we feel that if anybody gives the order to put that spring flow into effect, they are intentionally destroying property and they ought to go to jail. And yet we stand by and casually say, well, yeah, there are burdens to be borne and all that sort of thing.

But, getting away from the landowners' interests for the moment, let me touch on another aspect of this and that is that the Park Service and the Corps are jointly responsible for administering the stretch of river between Yankton and Ponca, approximately, fifty-nine (59) miles of river which is still in a relatively natural state, although the flows are very closely governed by the Corps.

One of the responsibilities of the governing bodies is to protect that river and try to preserve the nature of it. That's why it was made part of the scenic river system. If nothing is done to protect those shorelines, the existing trees along the river, for example, are going to be gone. There won't be any more trees.

You'll go down that river and except where it impinges upon the wasp, you're going to

Other 272

PETERSON 125

be looking at soybean fields and cornfields and, with a high flow, you'll see extensive erosion.

We just don't think that's responsible management and several times this evening the Missouri River Basin States' vote in favor of a spring flow has been mentioned. I've heard no prior mention of the fact that the group also said that provision should be made to protect the landowners along that part of the river. At least that was a report in the papers I read and I get five (5) newspapers a week, I guess, including any provisions in "Plain Talk."

I see I've still got a yellow light here. I might make another comment or two.

I think most of us in this room probably have the same objective. We'd like to see the river preserved and protected, but the way you do it is very important and, again, speaking to that, mentioned several times this evening has been the American Society for the Advancement of Science, if that's the proper name.

As you probably know, they recently concluded that there was no credible evidence to support the Fish and Wildlife Service's findings

MURDOCK 126

in the Plymouth Basin out in the Northwest.

I better stop, the light's red.

Thank you very much for your time.

MR. CIESLIK: Peggy Murdock?

MS. MURDOCK: Hi, I'm Peggy Murdock and I represent the Iowa Chapter of the Sierra Club.

Thank you for providing this opportunity to comment on the management plans for the Missouri River.

I am here on behalf of the Iowa Chapter of the Sierra Club to express support for GP2021, the Flexible Flow Alternative.

This is the alternative that will best suit the recommendations of the United States Fish and Wildlife Service. Recommendations that are strongly supported by a two (2) year study conducted under the auspices of the National Academy of Sciences.

The current management of strategy for the Missouri River has been designed with the interests of only one sector of the economy in mind, that of the barge industry. Now you are being asked to look at what this means to other sectors of the economy, as well as to the living

MURDOCK 127

things that inhabit the water and shores of this great American river.

Mr. Christopher J. Brescia, President of the Midwest Area River Coalition, in his testimony before the Congressional Mississippi River Caucus in March said, "It's time for a national debate on the values of the waterway system." We would agree.

Let us take a look at the losses, for example, those of the commercial fisheries that once thrived on the Missouri. Let us look at the unrealized potential of hydroelectric power generation, which the National Academy of Sciences study tells us could be boosted by another ten million dollars ($10,000,000), if dams could be modified with energy and generation in mind, instead of being designed for the benefit of the barge industry.

HPower 2, 18, 17

Let us take a close look at the barge industry itself. As Mr. Tim Burrak of the National Corn Growers Association reported for the U.S. House of Representative last March, "Barge crews, specifically deck hands, are an entry-level position with a high turnover rate." If you investigate, I believe you will find that

Nav 8

MURDOCK 128

railroad workers, on the other hand, are union workers who can sustain an American family on their salaries.

Nav 8 (con't)

Barge operations are hampered by high winds, fog, rain, current flows, differences in water levels and by ice. Rail transportation is not. What if we were to take the national resources we now invest in the barge industry and invest them in our rail system? Could this make railroading more competitive and more rail transportation costs, not just along river corridors, but all over the nation?

U.S. Fish and Wildlife Service tells us that allowing this river to operate with a heavier flow in the spring and a lighter flow during the late summer will benefit three species, the Pallid Sturgeon, the Piping Plover and the Least Tern. These three species are of special concern to us because they have been placed on a threatened or endangered list, but these are not the only living creatures that depend on this river for their existence and certainly not the only species that have become vulnerable. For example, under present river management practices, habitat for insects, which

EnSp 7

provide food for our fish in the water as well as birds when they emerge into the air, have been reduced by as much as sixty (60) percent. Without food, no species can survive. Without ample food, no species can thrive.

EnSp 7 (con't)

River edge rowcrop land is an economic and environmental liability. It is a source of revenue drain and losses need to be compensated in flood time and a source of anxiety to the landowner who experiences just how unreliable this land can be. What we haven't realized until recently is the value to the economy, the environment and the community of restoring these areas to wetland. Sierra Club supports easements for a wetland restoration that could be purchased through programs such as WRP, EWRP, or other long-term or permanent set-aside efforts. These wetlands, if we allow them to exist, will protect our farmland and communities by storing water, which serves to mitigate the effects of both drought and flood.

FC 8

WRH 6

One of the speakers at the December Pew Oceans Commission hearing in Des Moines presented his vision of a restoration project for the Midwest on the scale of the Everglades

restoration. What better place to start than with the Missouri River? What better time to start than now?

MR. CIESLIK: Corky Jones?

MR. JONES: My name's Corky Jones. I'm a farmer from Brownville, Nebraska, and we have fifteen hundred (1500) acres on the Missouri River that is affected by the river levels.

I'm also representing American Agriculture Movement, a family farm organization that represents farmers.

I think we need to look at some of the statements that have been placed here. I've attended many of the meetings that have been held over the past years, some I've testified at and some I have not. But facts are, number one (1), the so-called endangered species that we continue to hear about, possibly and very probably are not endangered.

EnSp 28

Fact, we talk about the barge percentage of traffic of grain being maybe one (1) percent or really low, but the fact is that the barge is there, that the barge traffic is there makes it competitive with all modes of transportation. It means a lot to the farmers.

Nav 8, 31

JONES 131

Facts, when we look at what would happen if some of the programs that have been submitted here were going to experiment with the fluctuation, fluctuation of the Missouri River levels.

Facts are, flood me out one time, flood any of the farmers out one time and it's a fact, it's really hard to continue. You're placed in an annihilation system.

If it's flooded in the spring, that's right when we need to plant. If it's flooded in the spring, it's going to continue to be wet. We've heard that testified to by many of the farmers that have testified earlier.

But, the fact is, they're experimenting with my income. All the farmers and the people that are opposed to the manipulation, or any difference of the water control releases, are not asking Fish and Wildlife or any other entity, be it Sierra Club or any of them, we're not asking to look at your paycheck or take it away with any of the actions we want. That, we feel, is a must. But, they're destroying every farmer, from St. Louis to Yankton, South Dakota, with this program,

FC 6, 8

JONES 132

especially the 2021.

I, as a farmer, say, and I, as an American Agriculture Member representing farmers nationwide, say that definitely, adamantly opposed to the 2021 program, the manipulation or altering of the levee and the water levels.

Current program, keep it.

There's many people that have testified and I can say that the threatened endangered species, they're there, I've seen the birds on my own land. I know they're there. I'm not saying I've counted them to see what the increase is, but people have testified tonight say it's on the increase. And I know they're there. The Pallid Sturgeon, I can't say anything about him, but it's not in our area. It never has been, Brownville, Nebraska. I guess I skipped over where I was from, but I am from Brownville, Nebraska, Route 1, Box 17, 68321.

Several years ago, back about twenty (20) years ago, I participated and was a part of the tractorcade in a protest of policy to Washington, D.C.

This is political, I think it needs another protest, whether it's a tractorcade or

GRONAU 133

what, but the farmers that are being affected, surely that diesel smoke should erupt and we should be smelling it, because there is a problem and we're not asking for anything other than what's fair and what's right.

Thank you for your time.

MR. CIESLIK: Doug Gronau?

MR. GRONAU: Colonel, Ladies and Gentlemen, my name's Doug Gronau. I'm a farmer in West Central Iowa. I live at 3245 K Avenue, Vail, Iowa. I'm a resident of Crawford County.

I have lived between eight (8) and fifty (50) miles of the river my entire life and I'm very concerned about the economic consequences of the proposed changes to the Current Water Control Plan for the Missouri River.

Reduced summer flows along the river will eliminate barge navigation for several months and give shippers one less option to move farm commodities to their final destination. This increases freight rates and will have a direct negative impact on the prices farmers receive for their products.

Nav 12

Recently, as an example, just the

GRONAU 134

threat of importation of Brazilian soy-meal by ship to the southeastern region of our country has reduced rail freight rates to that area for the Central United States. Low flow on the Missouri River could impact shipping on the Mississippi River, too, during the summer months, if a drought condition exists in the upper Midwest, and will cause serious market losses for farmers in all of Iowa and the upper Midwest region.

Miss 4

Reduced summer flows could hamper power generation in our region, just when demand for power is highest. Future economic activity is dependent on plentiful and reasonably priced power.

HPower 17

Reduced summer flows will cause severe economic hardships for marinas and boaters by making the river unusable for boating activity during the summer months in an area already lacking large lakes.

Rec 4, 10

Reduced summer flows could make any drought that may occur worse by lowering the water table when rainfall and soil moisture are most needed by crops.

GW 9

Reduced summer flows for wildlife

EnSp 26

GRONAU 135

can be accomplished by other less costly methods, such as the use of chutes and backwaters.

EnSp 26 (Cont)

Excessively high spring flows can be a major problem for agriculture. Not only could very high flows limit navigation, but also it would raise river levels at a time when all farmers are facing seasonal drainage problems in their fields. These drainage problems, combined with a very high spring river level and sudden heavy spring rains could cause serious problems, not only for drainage, but could cause actual flooding, particularly in Southwest Iowa and further downstream.

FC 8
IntD 8

In conclusion, a change in management of the Missouri River to accommodate upper river interests at the expense of the interests of lower river states will have a devastating effect on our economic well-being far in excess of the economic benefits gained by upper river states.

The Corps of Engineers should use a balanced management plan, one that will not cause major economic and recreational disruptions to the citizens of the lower Missouri River.

Thank you for this opportunity.

ROHDE 136

MR. CIESLIK: Cliff Dorcy? Cliff Dorcy?

Paul Rohde?

MR. ROHDE: Well, good evening, Colonel.

My name is Paul Rohde, I'm Vice President of the Midwest Area River Coalition 2000 and, as you know, we testified at five other public hearings, focusing on various aspects of the RDEIS.

Today my comments relate to the conservation promise of the MCP and GP proposals.

Now, on its face, the concept of preserving water during times of drought seem to make common sense. In fact, during the two (2) years that we've participated in the MRBA negotiating process, navigation interests did something no other participants elected to do and that was indicate a willingness to accept a reduction in service earlier than provided for in the Master Manual, as a show of good faith to this notion of saving water for all future users in the basin.

Nav 51

Now, since water is such an important commodity during these times, we asked

ROHDE 137

for some sort of compensation, such as an exemption from the fuel tax paid under the Inland Waterway Trust Fund.

We also asked for a plan that met a bottom line necessary to sustain navigation. If service levels were reduced, then we need a season long enough to move grain to market. We made an offer to share pain, but what we got was a reduction in service, without the time needed at the end of the season and without any support for compensation.

MCP in its current form is not acceptable. It doesn't share water during times of drought. The triggers for lower navigation service are activated so soon in the process that any water saved isn't provided for downstream users in Iowa, Kansas, Nebraska, Missouri and on down the Mississippi River. In times of drought, only reservoir and interbasin transfers are provided with water, but navigation and downstream recreation and power supply are not. This is not a fair allocation of water between project-organized uses, which is why we oppose the MRBA proposal and still oppose the MCP proposal.

Other 7, 23, 198

ROHDE 138

A review of the hundred (100) year hydraulic records by the Missouri DNR reveals a consistent rise in the average pool levels in upper reservoirs, including years of drought. Essentially, negative impacts on riparian habitat, downstream recreation, downstream navigation, power supply, water supply, are balanced against increased upstream recreation benefits. This is hardly "shared pain" within the basin.

Other 7, 23 (Con't)

MCP is unacceptable not only to Missouri River navigation, but certainly unacceptable to Mississippi River navigation. Under the CWCP there's one (1) year of eliminated service on the Missouri and eight (8) shortened years. That same period reveals only seven (7) years when these low flow regimes can coincide with low water on the Mississippi, which is important because in low flow years that sixty (60) percent flow of the middle Mississippi is made up from the Missouri.

Miss 4,19

Now, we contrast the type of support with MCP, where we have five (5) years of no navigation support and thirty-five (35) years of shortened seasons. That's a three hundred and

ROHDE 139

forty-four (344) percent increase in adverse conditions. In addition, of the total forty (40) years of impacted service, thirty (30) of them coincide with the low water flows along the Mississippi River, yet we're presented here today, we've been at every public meeting, with a notion that MCP is, in fact, better for the Mississippi River than CWCP, and that conclusion is absolutely false. The real world implications of eliminated support are lost in the Corps' long-held averaging game, which results in a minimization of losses.

Miss 4, 19 (con't)

The Corps knew full well that single-year events could be catastrophic. Indeed, after playing with aspects of this data and former analyses, we also learned that drought events tend to be multi-year, compounding the economic impact. Regrettably, three (3) bad years in a row, followed by three (3) good years, don't average out to six (6) "no impact" years, despite the Corps' best intention.

Miss 26, 30

Even within the parameters of the averaging scheme employed by the Corps of presentation of the data, if you eliminate one (1) year, 1939, from the mix it dramatically

ROHDE 140

shifts the average annual impact from positive results for MCP to significant negatives, averaging four point five (4.5) million per year in lost benefits on the Mississippi and this data is also suspect and incomplete. Because the final Mississippi River Impacts analysis conducted by the TVA won't be available prior to the conclusion of these public comment periods. We asked navigation experts to conduct their own analysis.

Miss 26, 30 (con't)

We found that the loss in water support under MCP could generate an average annual impact from seven point five (7.5) million per year to as much as thirty (30) million a year. This staggering impact has raised our opposition to the "conservation" underpinnings of MCP and the GP plans to a higher level.

But again, the real travesty here is that the public's being asked to evaluate alternatives when the impact analysis is incomplete. There are real world considerations to the effects of future depletions on the Missouri that have not been presented to the public or factored into the plans. We've asked for depletion runs on the MCP plan during this

Other 9

ROHDE 141

entire comment period and have been told that this request has been denied.

This is important because the depletion runs made on other previously considered proposals demonstrate that greater impacts would doom any of these alternatives in the opinions of stakeholders basinwide. Under CWCP, current depletions adversely affect over twenty-four (24) months of no navigation or service. A three point two (3.2) MAF depletion would triple that impact and under the old C 31 proposal there would have been forty-eight (48) months of impact and an impact of over five (5) times under a three point two (3.2) MAF depletion run.

Other 9 (con't)

Nav 49

Just to close, I wanted to say that MCP is not an acceptable solution, nor are its conservation assumptions based, according to the membership that I represent here for the Midwest Area Coalition 2000.

We need to get back to a more equitable distribution of water that benefits the entire basin during times of drought, not just one part of the basin.

I thank you for the opportunity and

GARTNER 142

I've already submitted my statement.

MR. CIESLIK: Tom Gartner?

CAPTAIN GARTNER: Good evening.

I'm Captain Tom Gartner. I'm Captain of the motor vessel Kanesville Queen, Director of Marine Operations and Facilities for Harrah's Casino and Hotel.

Harrah's operates a casino river boat year-round, which cruises daily, from April through October, pursuant to the requirements of the Iowa Racing and Gaming Commission. Harrah's concern regarding the altering of the river levels is two-fold.

The first concern is a public safety issue, both of patrons, as well as our employees.

The second is the negative impact that the proposed offering would have on recent Riverfront revitalization efforts by both Iowa and Nebraska.

To address this first concern, if the river levels were adjusted, new high water levels would lead to a greater quantity of unsanitary and unsightly debris in the river, such as logs, trees and livestock carcasses that interfere with the proper operation of engine

FC 47

GARTNER 143

propellers, creating dangerous conditions for the casino boats and recreational boaters, as well. High water would also adversely affect surface parking. With water rising over the river bank, patrons would have limited access to our facility, reducing business and, therefore, decreasing the tax dollars we contribute to the local economy. Low water levels carry different, but equal safety concerns.

Rec 4, 23, 27

The current rate of silt buildup requires us to engage in costly dredging operations two times a year, in order to sail on the river. Further fluctuation in low water during the summer months would only magnify this issue. Marinas and floating docks would become ineffective during July and August, leaving both commercial and recreational boaters without river access. We can only speculate as to how quickly the silt will accumulate, restricting our ability to traverse the river, disenabling us from meeting our cruise requirements of a hundred (100) trips per season.

Harrah's Casino and Hotel employs approximately twelve hundred (1200) people. On an average Saturday over ten thousand (10,000)

GARTNER 144

people visit our facility.

We're deeply concerned that the Army Corps' plan to adjust the river level either up or down would affect not only our guests who come to enjoy the river boat and the waterfront atmosphere, but also our employees who derive their livelihood from the facility.

Other 273

To touch on the second concern of negatively impacting the revitalization of the Riverfront. Both Omaha and the city of Council Bluffs are hard at work to make the improvements to all aspects of the Riverfront. These costly efforts are being made to draw people to the Downtown Omaha and Council Bluffs areas, thereby stimulating the local economy.

Two (2) new convention center facilities within a small radius of the river are presently under construction. New office towers and renovations in Omaha's Old Market District are underway. New marinas are planned as well.

We applaud those efforts and are concerned that any adjustment in river level may work against the overall goal of creating a safe, attractive center of activity to attract both local residents and tourists to the area.

In consideration of the aforementioned, we respectfully request that the river levels stay the same.

Thank you.

MR. CIESLIK: John Torbert.

MR. TORBERT: Good evening.

My name is John Torbert. I'm Executive Director of the Iowa Drainage District Association.

Thank you for the opportunity to appear today for this very important issue.

The Drainage District Association represents the interest of organized rural drainage districts in the State of Iowa. Although the bulk of our membership is in the "prairie pothole" region of Northwest Iowa, we also represent drainage interests on both Missouri and the Mississippi Rivers. Our membership represents more than three thousand (3,000) drainage districts in twenty-six (26) Iowa counties. In most counties that representation occurs with county board supervisors who, under state law, can become trustees for the districts. But, some districts continue to be represented by individual trustees

and you heard from both tonight.

The IDDA is here today to support the Current Water Control Plan for the Missouri River. Many farmers that farm land along the river have invested many thousands of dollars to drain that land to increase its productivity. We are very concerned about inland drainage and the impact it has along the river and behind the levees. The Iowa Farm Bureau presently has determined that increased river flows could result in production losses on more than one hundred thousand (100,000) acres of land, which will, in turn, result in economic losses of thirteen million dollars ($13,000,000). That's one (1) year.

GW 7, 14

The spring rise, which is included in all but one (1) option will not allow the planting of corn on affected acres. Planting of that land can be pushed back to July, which can also create harvest problems when early frost occurs. We're also aware that there have been substantial concerns expressed about the impact of changes in the river's flow would have on barge traffic. The Missouri River provides about half the flow of the Mississippi River, which is

Miss 4

BURKHOLDER 147

a vital route for our commodities and plays a huge role in our ability to compete in the international marketplace.

Miss 4 (Con't)

Finally, we know that MidAmerican Energy has analyzed these plans to see the impact they will have to generate, on the ability to generate power. According to the Iowa Department of Natural Resources, forty (40) percent of Iowa's generating capacity comes from the Missouri River. What impact will the change in the flow of the river have on our ability to generate power?

MoPower 1, 2, 3

It is for these reasons that the IDDA wishes to go on record in opposition to any change in the current flow plan. We believe that this option provides a balanced approach to the environment and to the farmers along the river that earn their livelihood from the land.

Thank you.

MR. CIESLIK: David Burkholder.

MR. BURKHOLDER: Thank you for this opportunity to testify.

My name's David Burkholder. I'm representing Consolidated Blenders, Incorporated.

I submitted testimony when you were

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down in Nebraska City. I did not plan my evening that night to stay into the wee hours of the morning, so I had to leave before I had a chance to say anything, personally.

Nav 49, 3

Consolidated Blenders produces about seventy thousand (70,000) tons of alfalfa pellets per year in Central and Eastern Nebraska. We ship about half of that production on the Missouri River each year.

Basically, we begin production in late May. Our main production months are June, July and August. In the normal year, I get my first barge loaded about the 1st of June. We've loaded lots of barges in June, July and August.

Our production starts to taper off in September and October and, generally, that production we keep back here in Nebraska for our Nebraska customers during the winter.

The idea of the split season on the Missouri River just doesn't work for us. When we want to ship the stuff in June, July and August, if you start to cut off the flow of the river on June the 21st or something like that, you know, my experience has been when the river's supposed to be opened 'til December 1st, barge operators

BURKHOLDER 149

want to pick up the last barge from my place November 15th, November 18th, something like that, and make darn sure they beat the water down the river. That means that they'd want to pick up the last barge at my place on June 10th or 12th, something like that. Heck, that's just when I got started shipping.

Nav 49, 3 (con't)

Our customers are set up where we've got a barge-way facility in Blair, Nebraska, we've got another one at Guntersville, Alabama. That's the farthest southern point on the Tennessee River System. We unload barges down there and sell it to customers all over the Southeast out of that location. That's approximately half of the storage that I have available for my product. Alfalfa product that we produce mainly in the summertime, we consume it mainly in the wintertime, when seed's scares. We can't produce it if we don't have anyplace to store it. If you shut the river off from June 21st to the 1st of September, or whenever, you've just cut our production off from our storage facilities, especially if you put us out of business.

Nav 49, 3

I've got another item that I want to

BURKHOLDER 150

comment on and I just don't think the RDEIS has done a very good job at all of estimating the power costs associated with any of these plans.

HPower 12, 18
MoPower 1, 3

I know we've had several people address power already tonight and I'm not really an expert on power, but I know how much more electricity costs me in July and August, than what it costs me in May and September and October and I can buy power pretty darn cheap in the spring and the fall. Power is expensive in July and August. Your plan actually shows you're going to produce a little more power if you maintain higher lake levels, because you'll have more head, or something like that.

But, power produced in April and May, in this part of the country, isn't a very valuable commodity, compared to power produced in July and August, and I get worried that if you start producing less power in the mainstem dam and then again curtail power production on the lower Missouri here because of temperature concerns, we can face a deal like California faced last winter where all of a sudden you have a shortage of power and, you know, it isn't worth a few cents more, it's worth twenty (20) times

PORTERA 151

more, because there just isn't enough of it to go around.

I really think that your analysis of what power costs will be under the new system are too low.

In conclusion, I just want to say, you know, if you attempt to put anything in like this split navigation season you're going to put my company out of business. I don't really think it's necessary. I think there's other ways to provide habitat for the endangered species on the Missouri River.

EnSp 26

I think Papio Natural Resource District, among others, have provided a number of those alternatives and I guess I'd ask why the world aren't any of those alternatives included in your analysis of what can be done to save the endangered species on the Missouri River.

Thank you for this opportunity to comment.

MR. CIESLIK: J. Randel Smith? J. Randel Smith?

John Portera?

MR. PORTERA: I never thought I'd make it up here. There are more chairs than

PORTERA 152

people now.

But, anyway, I'm John Portera, 607 Dearborn Circle, Papillion, Nebraska 68046. I'm representing the Hazard Corporation, which has provided leisure-time activities for residents along the banks of the Missouri River.

The corporation, along with other business entities along the river, desire to be good neighbors with the developmental stages in regards to Missouri River. With that put forth, the corporation respectfully requests to present a few questions in the spirit of cooperation and with that, and with the geographic locations, we understand that you will not be able to answer these tonight, but perhaps at a time when it is essential to you and the opportunity presents itself, you will forward those answers to us.

So, those questions are:

What is the timetable with respect to this project, with concerns to the geographic area? Where will it begin? How will it begin, and at each segment? What will it encompass, as pertains to the Nebraska and Iowa elevations of the river with respect to the river banks? What will be the improved water level this project

Other 302

Hydro 44,45

PORTERA 153

desires to achieve? Please quantify prior and post-levels.

Is there any audit procedure set in place to monitor this mechanism and implementation? What will be the amount of change in the river with respect to the gradual flows and please quantify what the gradual flow will be with respect to the drag and how the depth change will be and what would be the dredge level?

Hydro 44,45 (con't)

Other 119

Will it be an insignificant change or a significant improvement with respect to the river?

We all here tonight, we're concerned with the environment. Therefore, if the water level is increased, the environment is affected. Conversely, if the water level is decreased, the environment is affected. Therefore, what is the intent of preserving the environment with this proposal and what is the intent in regards to wildlife along the Missouri to coincide with the activities along the river bank?

EnSp 7

The Hazard Corporation is involved in providing leisure-time activities along the Missouri River. Like any business, our intent is

PORTERA 154

to expand our operation along the river.

Our corporation is bound upon the decision and agrees with what is engaged by this committee.

A change in the water level will impinge our operation and further development of the new basin to complement our existing basin.

The corporation desires to work in harmony with all entities involved. Our goal is to enhance the ambience of the Riverfront, provide leisure-time activities for all by contributing to the economic development of this area.

We do appreciate the forum to present these concerns. We here tonight understand the goals set forth and how they arrive at that goal will determine the success or failure of this proposal. It is with that, that we trust the outcome of these endeavors will enhance the economic, social and leisure-time activities and not be to its detriment.

Thank you for this opportunity to present this.

I hope you guys can see the Late-Late Show tonight, too.

Thank you, Gentlemen.

MR. CIESLIK: Brad Lau?

MR. LAU: Thank you, Colonel, for the opportunity to testify this evening.

My name is Brad Lau. I am representing the St. Joseph Regional Port Authority in St. Joseph, Missouri and the nine (9) public ports, as Secretary of the Missouri Port Authority Association throughout Missouri.

As a Missourian, I would like to concur with the many strongly articulated points associated with the negative impacts of changing the Missouri River flow.

As a representative of the Missouri Port Authority Association, I specifically would like to voice our concerns and disapproval to the Army Corps of Engineers proposed Modified Conservation Plan.

Nav 30

This plan would have a severe economic impact on the operation of ports along the Missouri River. These multi-million dollar facilities serve as an important economic development infrastructure in providing an alternative and competitive transportation medium for businesses in their receipt and shipping of

raw materials and finished goods.

They're extremely important to the Missouri, Kansas, Nebraska and Iowa farmers in providing a cost-effective means for both transportation and agricultural products.

River-borne transportation is known to be the least cost alternative for bulk movement. In addition, river-borne transportation is also the most fuel efficient, the least polluting and the safest, in the least number of accidents. So, if anything, we should be encouraging river navigation verses hindering it.

Therefore, the Missouri Port Authority Association is opposed to the Corps' proposed Modified Conservation Plan for the following reasons:

Higher reservoir levels in the upper basin lakes would lead to decreased water commitments for lower basin states, such as Missouri, Kansas, Iowa and Nebraska, thereby negatively impacting navigation on the river.

Nav 30

The proposed spring rise could lead to flooding, which again would negatively impact navigation on the river, as well as flood

FC 8

1 river-bottom farmland.
2 We are opposed to reduced river
3 flows during the summer if it would split the
4 navigation season, possibly ending navigation on
5 the Missouri River altogether.
6 As the economic viability and the
7 stability of the United States and our local
8 communities are at risk, the Army Corps of
9 Engineers should not adopt new policies that will
10 stifle and eliminate economic opportunities
11 associated with the Missouri River to the states
12 of Missouri, Kansas, Nebraska and Iowa.
13 While we're not opposed to species
14 habitat restoration, we are opposed to any
15 measures involving changes to the Missouri River
16 that could potentially impact the economic health
17 of our communities and other communities along
18 the Missouri River that rely on the economic
19 benefits associated with the Missouri River, be
20 that in the form of navigation, utility
21 production, drinking water or irrigation.
22 We urge the Corps to continue the
23 water control plan now in operation.
24 Thank you for the opportunity to
25 comment.

Nav 12

Other 7, 23

1 MR. CIESLIK: Karl Momsen? Karl
2 Momsen?
3 John Weeks? John Weeks?
4 I think it's Mike Hamilton?
5 Hamilton?
6 R. J. Brown?
7 Jeff McDonald?
8 Dale Dilts?
9 David Boyd?
10 Sam Irwin?
11 MR. IRWIN: Thank you, Colonel.
12 Thank you, Colonel -- is it on? I guess I've got
13 a lower voice than I thought I had.
14 I'm Sam Irwin. I live at 321 Perrin
15 Place, Council Bluffs, Iowa. I'm a past Mayor
16 and City Council member of Council Bluffs, Iowa.
17 I'm going to repeat some issues
18 that's already been here already tonight. So
19 much has been said around the economic dollar
20 factor, which would impact our city, obviously,
21 as Mayor Hanafan talked about and Mayor Fahey.
22 The specifics that I'm concerned
23 about, personally, because of my experience on
24 the Council, is the water table in this town is
25 terrible on the west end of town. We're trying

to develop it and we've spent sixty million dollars ($60,000,000) already on our sewer systems to mitigate some more problems. If we change that water table again, it's going to slow down our areas that could still be developed in our community.

GW 15

Then, we have the power plant down here that's going to be putting in one point four (1.4) billion dollars and construct down there. I don't know the impact, I'm not a detail person, but I'm sure it may have an impact on that, because of the water flow, it's going to need to go through our wastewater treatment plant.

MoPower 1

There's been discussions over the years, also, about our water treatment plant, just as Omaha has concerns about the revising of the quality of the water tables and lake tables and what it would do for our treatment plants. Same thing with our sewer treatment plant down south there. And, as Mayor Hanafan also said, when you close those gates along the river down there on those high-water times, it backs up and causes us some grief, probably some health problems with the mosquitos and whatever else transpires, even though we may be able to pump it

GW 15

IntD 14

over. And I don't know where that's at. I've been out of the loop for a number of years, so I don't know for sure what transpires anymore, but Mosquito Creek, Indian Creek and 23rd Avenue that bypasses down there are very important for the city's growth and long-term use.

Therefore, my concerns have been echoed by a couple of Mayors already and I hope you take a look at the impact it might have on our community.

I thank you for your time.

MR. CIESLIK: Marvin Klein?

MR. KLEIN: My name is Marvin Klein. I'm a Director on the Rural Electric Co-op at Woodbine, Iowa, but I'm also a Director on the Midwest Electric Co-op at Denver.

My concern with the Master Manual has to do with the possibility of raising rates. And that's been talked about a lot, so I'm not going to be spend much time on it.

I just wanted to say that I had the opportunity, when I was in Denver, to hear General Fastabend give a very passionate address to a group. It was following September the 11th and we were all very moved by his speech.

He says that when he was assigned to this task he just assumed that he was going to get on with it and get it over with quickly. And, then, when he addressed the group and said that he had attended many of the meetings in the north and all around, realized that this was a very difficult task. And I'm thinking tonight, as I heard so many people with different opinions, there's a book by Anthony DeMello, One-Minute Nonsense and in this book he tells a story about the master brought his wife and a new baby home from the hospital and situated them in his home. He looked across the room as he saw her standing by the crib. He went over and he put his arms around her and he said, you know, I think just like you do. And she turned and looked at him, don't you wonder how they can build a crib for twenty-five dollars ($25)?

I think of that and what a difference we have just in the way we approach things. We come at it from all different angles.

I'm a newer member on the Rural Electric Board and one of the things the seniors have always told me is the worst fear they had is having to raise rates.

HPower 18, 17

Well, I believe that, from after listening to what we've heard, the summer lows are going to cause the WAPA to go out and buy power at whatever the price might be.

This particular proposal shows us that under GP2021 there would be a loss of revenues of upwards to twenty-nine million (29,000,000). But, that's just showing the loss of revenues. It doesn't show what it will cost to buy that additional power that's going to be needed. And I have a fear that we are going to have to raise rates. And like the gentleman before said, you know what happened in California, the disaster there?

Well, we hope that won't happen and I don't think it has to, but I guess we just pray that the Corps can do the best they can coming up with the plan that's in the best good for all of us.

You know, with the scandal that we had with Enron and all the energy companies that are happening today, I think one of the fears the public is going to have is, what, they're going to raise our rates because of endangered species or fish? Their priorities are with them instead

of with people? I have a fear that that might happen. I mean, if I had to raise rates, I'd be afraid to tell those people that.

I thank you.

MR. CIESLIK: That's all the cards we have indicating to give testimony.

Is there anyone else that wishes to testify?

Sir? Come on up.

MR. SIECK: I would have filled out a card, but I felt like that I'd like to listen to what most people had to say tonight.

I'm David Sieck, Missouri River farmer in Mills County, Iowa. Also Treasurer of the Iowa Corn Growers Association.

Well, we're about ready to wrap up our twenty (20) hearings and all this time, I think most issues have been addressed, readdressed, over-addressed, under-addressed, you know, addressed.

I have one thing and maybe -- I feel that we've pitted so many interest groups here against each other in the process, it shouldn't be that way.

I think all of us understand the

aspects of everybody else and where we're coming from. We all have interests, whether its Chad, me, anybody, and I don't think that the process we've gone through has helped in any way to address any of that. I think it's just us against this war. And I don't know if we've found the right mix yet. I think we've been at it right now fourteen (14) years.

It seems what they propose is the 2021, which is the most extreme thing for the river and what we propose is no change.

That's the way my organization stands, the Iowa Corn Growers Association.

Adaptive Management; Adaptive Management's a scary creature for a person whose economics are dependent on the river, especially when Adaptive Management's one-sided. And I see that as my biggest fear and all six (6) of your policies apparently have Adaptive Management in it.

Other 3, 10

Whenever you're given the reins to my purse strings, as far as the farmer goes along the Missouri River, and you can change the river at will to try to adapt to scientific principles, we're not sure, really, right?

We hear one guy say it's the spring rise that triggers the fish and another person says it's water temperature. I don't think the sciences truly address that.

EnSp 4, 5

With the National Academy of Science, they think we should have a moratorium.

I would lean more toward that issue at this time, just for the simple fact that I don't think we know.

I guess I hate to see this thing close and still have us all pitted against each other. So, I don't have much else to say.

Whatever decisions you make will impact me. It will impact every person in this room. But, we really need to think about this carefully. We really need to take the time to make sure and I don't think we've taken enough time yet and I'd like to just close with that.

Thank you.

MR. CIESLIK: Sir, could you fill out a card for us?

MR. SIECK: Yes, I will.

MR. CIESLIK: Ms. Lee has those.

Anybody else wish to testify?

UNIDENTIFIED PERSON: I think we

ought to thank your staff and the recorder.

COLONEL UBBELOHDE: If there are no further comments, this hearing session is closed.

(Whereupon, this hearing session was concluded at the hour of 11:05 p.m.)

-o0o-

C E R T I F I C A T E

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

I, Gary A. Barnes, Court Reporter and General Notary Public in and for the State of Nebraska, do hereby certify that the hearing session as above set forth was reduced to print under my direction by means of computer-assisted transcription.

That the within and foregoing hearing session was taken by me at the time and place herein specified and in accordance with the within stipulations.

That I am not counsel, attorney, or relative of any of the parties involved, or otherwise interested in the event of this matter.

IN TESTIMONY WHEREOF, I have placed my hand and notarial seal this day of , 2002.

GARY A. BARNES
COURT REPORTER AND
GENERAL NOTARY PUBLIC

Mike Fahey
Omaha,

US Army Corp of Engineers – Missouri River Levels
February 19th, 2002 Public Hearing

Good evening. I would like to thank the U.S. Army Corps of Engineers for hosting this evening's public testimony. I appreciate the opportunity to further define and paint Omaha's new visions and dreams for its Missouri Riverfront and address the potential negative impact these new river proposals have on that new vision.

Like any other important decision, there are many perspectives to consider, many sides to study and often the best resolution lies somewhere in the middle. The concerns raised by wildlife and ecological experts are valid. But the Omaha/Council Bluffs areas also have valid concerns that need to be considered.

The City of Omaha has four major concerns. I would like to be clear, that the devil is in the details and tonight's review is a summary.

1. Omaha and Council Bluffs rely on the Missouri River for many essential services. Much of our water supply comes from the river. River levels have an impact on the releases of our sanitary and storm sewers. The Missouri River is utilized to cool area power plants, provide water for agricultural purposes and allow our city's industry barge transportation as a transportation alternative.

2. Regarding our Economy. Omaha has committed millions, and when it's all said and done, billions of dollars into new development and redevelopment of our riverfront. So much is planned that we loosely titled it "back to the river." With our Convention Center Arena, Gallup's new corporate headquarters, a fabulous pedestrian bridge linking hundreds of miles of trails, and new restaurants and parks Omahans will soon have unprecedented access to the banks of the Missouri River. So the water levels – in particular during the warmer months is imperative. We cannot underestimate the economic importance of having a functional and environmentally pleasing river

3. Our Quality of Life. Omaha is not blessed with large lakes, but recreational boating has steadily grown more important to Omaha's quality of life and Omaha's economy. All river proposals, recommend lowering releases to a level equal to or (worse yet) – below the minimum navigation channel requirements. Low summer flows would dry up our marinas. Boat docks would rest on mud and boats would be marooned. Planned docks for the new restaurant would not be accessible.

4. Our Image. The Missouri River is a mud bottom river. The look of the Missouri River is a significant factor to consider when building on the riverfront. A walk along our paths, over our pedestrian bridge, or through our parks will be less interesting if all we can enjoy are the muddy banks and the bottom of the Missouri River throughout the warmer months. We are building a new front door to Omaha and a vibrant, flowing Missouri River is an integral and key element.

In conclusion, the health and vitality of the Missouri River is critical to all of us. No doubt we all want the river to be the best it can be. But we must find a middle ground. To avoid severe economic outcomes, Omaha kindly requests that summer river levels be maintained at no less than 16 feet as measured at the Omaha station.

CITY OF CARTER LAKE
Office of the Mayor
950 Locust Street
Carter Lake, Iowa 51510
712/347-6320

Email: carterlakecityhall@cox.net

February 14, 2002

United States Army Corps of Engineers
Northwestern Division
Attention: Hearing Officer
Missouri River Master Manual RDEIS
12565 West Center Road
Omaha, NE 69144-3869

Dear Sir:

Elected officials and other public representatives of the City of Carter Lake, Iowa want to have this letter read and entered as part of the formal testimony recorded at the United States Army Corps of Engineers' (USACE) Public Hearing scheduled Tuesday evening, February 19, 2002 in Council Bluffs, Iowa regarding the Missouri River Master Manual Revised Draft Environmental Impact Statement (RDEIS).

Carter Lake, a horseshoe-shaped oxbow lake of the Missouri River, is located on the eastern edge of Omaha on the Iowa-Nebraska state line. The Lake is situated directly across from the Missouri River at river mile 620 on the right bank. The lake is approximately 3 miles long, has a water surface area of 320 acres and varies in width from 500 to 1,450 feet. Carter Lake has a rich history since being separated from the Missouri River in the late 1800's. Today, high value residential properties as well as public parks follow its lakefront. Property values along the lakefront exceed $18.6 million and additional high value properties along the lakefront are being developed. Adjacent property owners and the public intensively use the lake for recreation.

We have reviewed the 6 options discussed in the RDEIS and are concerned that the negative impacts to Carter Lake have not been adequately addressed. Oxbow lakes are connected to Missouri River levels through both surface water flooding and groundwater movement. This fact is contained in an engineering research report issued by the

CITY OF CARTER LAKE
Office of the Mayor
950 Locust Street
Carter Lake, Iowa 51510
712/347-6320

University of Iowa in cooperation with the Iowa Geological Society entitled Water Management, Water Quality and Alluvial Morphology of Selected Iowa Oxbow Lakes. This report states that the water balance of the lake is dependent upon recharge by precipitation, surface water and groundwater at times of high precipitation and groundwater levels. This is the case for Carter Lake. The desired level of the lake is between 970.5 and 971 feet above mean sea level (MSL). The mean Missouri River level between April to October near Carter Lake is 970.6 feet MSL based on gage data recorded between 1953 and 2000. Missouri River elevations above 971 feet MSL raise the level of Carter Lake; river levels lower than 971 feet MSL lead to increased lake seepage losses.

As a consequence, any change in the Missouri River levels from historic operations will have a direct impact on the water levels in Carter Lake. Higher groundwater levels will increase Carter Lake's water elevation and will cause shoreline erosion, boat and dock damage and dwelling flooding. Lower Missouri River levels will in turn decrease Carter Lake's depth levels leading to not only aesthetic damages, recreation limitations and water quality problems, but also to aquatic habitat damage. Carter Lake is a relatively shallow lake and any loss in lake depth has pronounced ecological and recreational effects.

Property damages resulting from the proposed Missouri River changes would be directly attributable to the flow alterations from the 1953 historic levels. As a consequence, the City of Carter Lake is opposed to flow alterations that would lead to higher river levels in the Spring and lower river levels in the Fall. We recommend that the USACE install an improved Carter Lake water level management system to mitigate the damages that would otherwise occur with fluctuating river levels.

CITY OF CARTER LAKE
Office of the Mayor
950 Locust Street
Carter Lake, Iowa 51510
712/347-6320

Thank you for your attention.

Mayor Emil Hausner, Fritz Dahlheimer & Ed Aldmeyer, City Council Members

Brad Hansen, Iowa State Representative & Dr. Barbara F. Piper, RN Planning Board & Dennis Rochford, Lake Issues Committee Members

Eric Dove & Barry Boyd, City Engineers

"The next World War will be over Water"
This quote was made by Ismail Serageldin, Vice President of the World Bank

I would like to congratulate the Army Corp. of Engineers for bringing together such an ecclectic diverse group of people who are against any changes in the current water control plan. This is a non-partisan group of city and county officials, Farm Bureau members, farmers, power company and others who are united on this issue. They will tell you about potential economic losses, not only to the farmers, but about the ripple affect to those who supply the farmers. They will talk about potential losses in ability to economically produce the electric power we depend on. They will tell you why we need the water levels to remain as they are.

I don't want to talk about why we need the water, buy why we have a Right to it.

The name for Islamic law is – shari'a- which stems from a word meaning "The sharing of water". Fourteen hundred years ago, the fledgling Muslim religion states that water is a right. This, from a people who live in a desert. But now, government and agencies who manage water, treat it as a need, much like oil or transportation or high speed internet access.

At first though, one would think that a right and a need are the same. But they are not. A need is something that is necessary and desired, but can be denied. A Right on the other hand, is an entitlement which cannot be denied. If water is a need, then it can be classified with roads and telecommunication, something people want, but not necessarily

guaranteed. If it is a Right, then local governments and agencies are required to provide it, as we do freedom of speech or religion.

Someday, I don't know when, those dams will be gone. There will be no walleye fishing in South Dakota, no farming as we know it, along the river, no houses or businesses in west Council Bluffs. This building and the levees will be gone, and for all we know, the pallid sturgeon will die or thrive, regardless of what we do.

But, until then, we folks downstream do not want to be denied our right to a dependable flow of Missouri River water. I respectfully ask that the Army Corps of Engineers keep in place the current water control plan.

Melvyn J. Houser
Pottawattamie County Supervisor

RESOLUTION NO. 8-2002

RESOLUTION URGING THE UNITED STATES ARMY CORPS OF ENGINEERS TO KEEP THE PLAN NOW IN PLACE FOR THE OPERATION OF THE MISSOURI RIVER MAINSTEM RESERVOIR SYSTEM.

WHEREAS, the United States Army Corps of Engineers has proposed to release higher than normal flows down the Missouri River in the spring and fall and release substantially lower flows in the summer; and

WHEREAS, the proposed changes will damage property, the economy, and the recreational uses of the Missouri River in communities downstream from Gavin's Point Dam; and

WHEREAS, valuable farmland will be exposed to potential flooding, drainage problems and adverse groundwater conditions; and

WHEREAS, the elimination of navigation on the Missouri River would shift transportation to rail and trucks, resulting in higher transportation costs and straining the ground transportation infrastructure; and

WHEREAS, reduced summer flows jeopardize electric power supply during peak usage months; and

WHEREAS, vaguely defined adaptive management plans could circumvent opportunities for public review and input regarding river management plans.

NOW, THEREFORE, BE IT RESOLVED, BY THE BOARD OF SUPERVISORS OF POTTAWATTAMIE COUNTY, IOWA, that the United States Corps of Engineers be urged to make no revisions in, and keep the current water control plan.

PASSED AND APPROVED THIS 15TH DAY OF FEBRUARY, 2002.

ROLL CALL VOTE

(AYE)	NAY	ABSENT	Delbert E. King, Chairman
(AYE)	NAY	ABSENT	Melvyn Houser
(AYE)	NAY	ABSENT	Betty Moats
(AYE)	NAY	ABSENT	Tim Wichman
(AYE)	NAY	ABSENT	Bob Williams

ATTEST: Marilyn Jo Drake, County Auditor

RESOLUTION NO. #R02-0211-05

WHEREAS, the Corps of Engineers is currently considering revisions to the Missouri River Master Water Control Manual (the "Manual"); and

WHEREAS, in conjunction with such revisions, the Corps of Engineers is required to consider the environmental impact of the same; and

WHEREAS, the Corps of Engineers is seeking comments on the current revisions and draft of the environmental impact statement for such purpose; and

WHEREAS, the City of Bellevue has a profound and sustained interest in the Missouri River and the Manual in that any revisions to the Manual have potential consequences for water quality and quantity, flood damage and soil erosion and sedimentation, domestic water supply, solid water management and pollution control, fish and wildlife, forestry, outdoor recreation and natural resources, and education, each of which impact on the economy of the City of Bellevue and the quality of life of its residents and taxpayers; and

WHEREAS, the Papio-Missouri River Natural Resource District ("NRD") has analyzed the potential adverse and other effects and consequences from the proposed revisions to the Manual and has prepared a position paper commenting on the environmental effect of such proposed revisions; and

WHEREAS, after careful study and consideration, the staff for the City of Bellevue concurs in the recommendations and analyses of the NRD; and

WHEREAS, the Bellevue City Council finds that it is in the best interest of the City of Bellevue and its residents, that the City of Bellevue articulate its position with respect to the proposed alternatives.

NOW, THEREFORE, be it resolved by the City Council for the City of Bellevue as follows:

1. That the City of Bellevue hereby endorses the position of the Papio-Missouri River National Resource District ("NRD") as articulated in its position paper dated December 13, 2001.

2. Specifically and without limitation to the foregoing, the City of Bellevue concludes (i) that the current water control plant as identified in the Manual should be maintained, modified only by those additional drought conservation measures included in the Modified Conservation Plan ("MCP") alternative more particularly identified by the Corps of Engineers in proposing alternative revisions to the Manual; (ii) that the Gavins Point Dam release changes (i.e., GP1528, GP2021, GP1521, and GP2028) be rejected in their entirety for reasons including that there is no endangered species justification for the negative impacts which would be caused by the Gavins Point alternatives and, as more particularly set forth in the position paper of the NRD, high water flow followed by low water flow causes sedimentation in marina entrances along the Missouri River, which would include the Bellevue Marina, and low flows would drastically reduce or eliminate access to the river during such periods, any of which will adversely affect the operations of the Bellevue Marina, and consequently adversely impact on the economy and tax levies of the City of Bellevue and its residents; and (iii) as determined by the NRD, the State of Nebraska and the Missouri River Basin Association, in making recommendations concerning the MCP, none of the Gavins Point alternatives appear to be reasonable or prudent and the selection of one of them over the others would be arbitrary and capricious.

Other 7

EnSp 17

Rec 10

Rec 23

3. In addition and without limitation to the foregoing, the City of Bellevue hereby endorses (i) the NRD's position relative to the continued use the adaptive management and expansion of the Mainstem dams together with the formation of a recovery committee to provide leadership and support to active management; (ii) the NRD's support for the policy of releasing higher volumes of water from the Gavins Point Dam to maintain adequate river stages and river intakes when the conditions indicate the chance for river freeze over or ice jam formation; (iii) the NRD's support for federal authorization and funding of a sustained monitoring program on the Missouri River; (iv) the NRD's support for the rehabilitation and restoration of habitat to improve the ecosystem, the avoidance of jeopardizing the continued existence of species currently threatened or endangered and to prevent the decline of other species through the full and complete implementation of existing mitigation plans and the rehabilitation of restoration of back water areas former oxbows and chutes on the river, and (v) the recommendation of the NRD that the Corps of Engineers Fish and Wildlife Mitigation Project be fully funded to a tune of $1 billion over a 20 year implementation period.

Other 7, 10, 70, 218

4. That the staff of the City of Bellevue and the Mayor are hereby authorized to articulate and augment the matters addressed by the Resolution of this Council by such means and alternatives as shall be considered by them to be necessary or appropriate.

PASSED AND APPROVED THIS 11th day of February, 2002.

Jerry Ryan, Mayor

CITY OF BELLEVUE INCORPORATED

Attest:

Beverly Hrdy, City Clerk

TMK/259691.2

TMK/259691.2

2

PAPIO-MISSOURI RIVER
NATURAL
RESOURCES
DISTRICT
8901 S. 154th St.
Omaha, NE 68138-3621
(402) 444-6222
FAX (402) 895-6543
http://papioard.nrc.state.ne.us/ papionrd

February 19, 2002

General David A. Fastabend
U.S. Army Corps of Engineers
Northwest Division
P.O. 2780
Portland, OR 97208-2780

Dear General Fastabend:

On behalf of the Papio-Missouri River Natural Resources District Board of Directors and our 630,000 constituents, we would like to publicly thank the Corps for holding this additional hearing on the Missouri River Master Control Manual. It does seem most appropriate to hold such a hearing in the "River City" for the citizens of Iowa and Nebraska.

The P-MRNRD has closely followed the process of developing an updated Missouri River Manual over the past 13 years while adopting position papers in 1994, 1998 and December 2001.

The P-MRNRD believes that the Modified Conservation Plan (MCP) is the best approach based on in-house and a private consultant's review of all materials provided by the Corps including the EIS by the Fish and Wildlife Service. It is the P-MRNRD strong opinion that if the Corps should select an option other than the MCP it must not go further than the GP1528 option. We strongly believe many things begin to unravel if GP2021/GP1521/or GP2028 were to be adopted.

To our knowledge no one, including the State governments of Nebraska, Iowa, Missouri and Kansas, has and are sponsoring more Section 1135, Environment Enhancement Projects, than the P-MRNRD. We strongly believe that 25% of the lost riparian habitat along the 740+ miles of the managed Missouri River needs to be replaced prior to a significant flow regime change occurs. It is the P-MRNRD's strong opinion that you must have appropriate habitat before the increased spring flows are to be significantly beneficial.

The P-MRNRD strongly suggests that all interested parties, landowners, environmental, navigation, electrical producers, recreation, provide a united front in significantly funding the Missouri River Mitigation Act (authorized in 1986 WRDA). **We suggested $1 billion over the next 20 years or approximately $50 million a year to annually complete approximately 5 or 6 major projects per year.** Such funding level would re-hab approximately 25% of the riparian lands along the Missouri River corridor over the next 20 years in the State of Iowa, Missouri, Kansas and Nebraska.

Papio-Missouri River Natural Resources District Board of Directors

Fred Conley • John Conley • Melissa Gardner • Tim Heller
Richard Jansen • Tim Krajicek • Joseph Neary • Barbara Nichols • Peter Rubin • Rich Tesar
Steven G. Oltmans, General Manager

The attached P-MRNRD position paper addresses the many issues that must be fully considered before the Corps of Engineers adopts a new Master Manual with flow option(s) for the Missouri River Main Stem System.

Thus, on behalf of the Board of Directors of the Papio Missouri River NRD, I submit our formal Position Paper, dated December 13, 2001.

Optimistically,

Steven G. Oltmans
General Manager

Enc: P-MRNRD Position Paper

SO/ltr-fastabend

PAPIO-MISSOURI RIVER
NATURAL
RESOURCES
DISTRICT

8901 S. 154TH ST.
OMAHA, NE 68138-3621
(402) 444-6222
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Revised Draft Environmental Impact Statement,
Missouri River Master Water Control Manual
Review and Update

POSITION PAPER

December, 2001

POSITION PAPER

Revised Draft Environmental Impact Statement,
Missouri River Master Water Control Manual
Review and Update

Papio-Missouri River Natural Resources District

December 13, 2001

Introduction

The Papio-Missouri River Natural Resources District (NRD) covers 1,745 square miles along the Nebraska side of the Missouri River, including all of Sarpy, Douglas, Washington and Dakota Counties plus the eastern 60 percent of Burt and Thurston Counties. The NRD borders 140 miles of the Missouri River from the Platte River near Bellevue to the Dakota/Dixon County line upstream from South Sioux City. It has responsibilities for water quality and quantity, reducing flood damages, soil erosion and sedimentation, domestic water supply, solid waste management and pollution control, fish and wildlife, forestry, outdoor recreation, and natural resources education.

The NRD has a profound, sustained interest in the Missouri River. It is proud of its partnerships in a number of significant Missouri River projects:

- The Boyer Chute National Wildlife Refuge was developed in cooperation with the Corps of Engineers and the U.S. Fish and Wildlife Service.
- The Boyer Chute/Nathan's Lake Expansion was developed in cooperation with the Corps of Engineers and the U.S. Fish and Wildlife Service.
- The Hidden Lake/Great Marsh Restoration was developed in cooperation with the Fontenelle Nature Association, Nebraska Environmental Trust Fund and the Corps of Engineers.
- Mandan Park Rehabilitation was developed in cooperation with the City of Omaha.

Through its participation in Back to the River, Inc. and other Missouri River Corridor efforts the NRD has provided leadership and support for:

- Krimlofski Tract Addition to Neale Woods Nature Center for education and recreation
- Miller's Landing development for a Missouri River park
- Missouri River Ecology Lab
- Omaha Arena and Convention Center and Gallup Campus
- Conversion of former ASARCO hazardous waste property to recreational use (now known as Lewis and Clark Landing)
- Pedestrian bridge spanning the Missouri connecting the downtown areas of Omaha and Council Bluffs
- Marina development and rehabilitation (Bellevue and Omaha)
- Riverfront trails and access trails

- Corps of Engineers Missouri River Fish and Wildlife Mitigation Project

The NRD also provided comments on the Draft Environmental Impact Statement in December 1994 and on the Preliminary Revised Draft Environmental Impact Statement in December 1998. The future of the Missouri River is an extremely valuable local, regional and national resource.

Alternatives

1. Current Water Control Plan (CWCP)

In previous testimony the NRD indicated a preference for continuing the CWCP with minor variations. The fact that all of the analysis that has been done shows, with few exceptions, that not much improvement can be made by changing the plan is a tribute to the federal and state participants that developed the original plan in the 1950s. Other 10

It is also a tribute to the adaptive management concept that has been in place since the beginning. The Master Manual was revised in 1973, 1975, and 1979. Many additional adjustments were made as challenges such as agradation, degradation, winter ice jams, changes in water quality requirements, marina silting, endangered species listings, high runoffs and droughts, to name a few, were addressed and dealt with effectively through the Annual Operating Planning process. Continuation of adaptive management is supported by the NRD.

2. Modified Conservation Plan (MCP) Other 61

The additional drought conservation measures included in the MCP are a concern in our region because of the effects on interior drainage (- 3 percent). The NRD recognizes that these additional measures are part of the recommendation developed by the State of Nebraska and other basin states over a seven-year period under the leadership of the Missouri River Basin Association (MRBA). With some reluctance, the NRD supports this plan because of the overarching benefit of unity within the Missouri River Basin.

3. Gavins Point Dam Release Changes (GP Alternatives)

The increase in spring releases and decrease in summer releases incorporated in the GP Alternatives provide little benefit and a great deal of harm. These alternatives are deemed necessary by the USFWS to avoid jeopardizing the continued existence of the pallid sturgeon, interior least tern and piping plover. The facts do not support this contention.

First of all, the Revised Draft EIS indicates that the GP alternatives would result in only 1 percent improvement in Physical Habitat for Native Fishes, the variable used to measure value to the pallid sturgeon. This nearly imperceptible change can hardly be sufficient to make any contribution to ensure the continued existence of the pallid sturgeon. The RDEIS states that another purpose of the GP alternatives is to provide a spawning cue for the pallid sturgeon. However, the Revised Draft EIS further states: "Corps and USFWS EnSp 17

biologists agree that there are no data to support definition of a spawning cue that would successfully result in spawning on the Lower River." Furthermore, the Missouri River downstream from the Platte River currently experiences a spawning cue similar to the cue that would result from the GP alternatives (see Figure 22 in the "Summary") and there is no indication that reproducing this cue in the less hospitable reaches above the Platte River would make any contribution to the recovery of the species. From this it must be concluded that the GP alternatives would have no effect on the continued existence of the pallid sturgeon. EnSp 17,29 (con't)

Also, there is evidence of heavy commercial taking of sturgeon in the lower Missouri and Mississippi Rivers. This is especially true with the current worldwide shortage of sturgeon and the high prices for caviar. Due to the difficulty of distinguishing shovelnose from pallid sturgeons, it is certain that pallid sturgeon are taken in the process. Restriction of commercial fishing is likely the most important element and possibly the only element necessary to prevent jeopardy or to recover the species. Fish 14 EnSp 28

That leaves the only justification for GP alternatives with the interior least tern and piping plover. The Revised Draft EIS indicates that the reach below Gavins Point Dam provides the greatest number of fledged birds even though it has 80 percent less habitat than the next most proficient reach of river. This can, in part, be attributed to the efforts of the Corps to manipulate flows to force the birds to nest higher on the islands and then protect the nests from river rises to the extent reasonable. The MCP alternative would increase the habitat for interior least terns and piping plovers by 43 percent. This vast increase in habitat should go a long way in reaching the USFWS goal of 400 adult terns and 300 adult plovers below Gavins Point Dam. The GP alternatives would only increase the habitat by another 16 percent (average). The additional harm caused by the GP alternatives does not justify this meager increase at least until the effects of the 43 percent increase resulting from the MCP alternative are known. EnSp 17

This leads the NRD to conclude that there is no endangered species justification for the negative impacts that would be caused by the GP alternatives.

Impacts of the GP Alternatives

Other than the potential effects on tern and plover habitat previously discussed, the only positive change of 5 percent or more resulting from the GP alternatives compared to the MCP alternative is a 6 percent improvement in cold water fish habitat in lakes. Fish 13

The adverse effects, on the other hand, are large and widespread, particularly in our region. The Revised Draft EIS indicates:

- Increased costs to hydropower users would vary from one to 20 percent. Over 50 communities in Nebraska receive power from WAPA and the Pick-Sloan projects as well as two of the largest five customers in Firm Energy Sales & Revenue. HPower 18
- From 140 to 390 MW of thermal generating capacity along the river would be at risk. Nebraska has four thermal power plants with 2500 MW capacity that use river water for cooling. This problem is created when summer flows are too low to absorb the MoPower 1

heat from full power plant operation and plant output is restricted in order to meet thermal water quality standards. A minimum flow of 25,000 cfs at Gavins Point Dam is required to prevent these impacts.

- Interior drainage and groundwater damages to farmers along the river, mainly in Iowa and Nebraska, would exceed $52 million per year, 9 percent more than for the MCP alternative. These damages result from the higher releases in the spring and fall. The four to five days it takes for release changes at Gavins Point to reach Nebraska City will make it difficult to keep damages at this level. IntD 8 GW 7, 14
- Navigation benefits would be reduced by 37 to 86 percent! Providing for reduced or no navigation support during the low-flow summer months causes this reduction. This extreme impact does not meet one of the three stated Corps goals: "The alternative should serve congressionally authorized project purposes." Nav 31, 12
- Warm water fish habitat downstream from Ft. Peck, Garrison and Ft. Randall Dams would be 9 percent less than for the MCP alternative. The reach below Gavins Point Dam was not evaluated. It doesn't make sense to conclude that an alternative that reduces warm water fish habitat by this amount is beneficial to the pallid sturgeon. Fish 19,6

The NRD is also concerned about the adverse effects that varying flows have on the marinas along the river between the Platte River and Sioux City [Decatur, Cottonwood (Blair), Dodge Park (Omaha), Sandpiper Cove (Omaha), and Bellevue]. High flows followed by low flows cause sedimentation in marina entrances. Further, low flows drastically reduce or eliminate access to the river during these periods. A good example is the recent experience at Dodge Park in Omaha. Problems occur whenever the stage at the Omaha gauge is less than 16 feet. Even the least egregious of the GP Alternatives (GP1528) would result in stages lower than 16 feet two-thirds of the time. Rec 4, 27, 23

Conclusion

Although the current water control plan (CWCP) best meets the needs of this region, the NRD joins the State of Nebraska and the Missouri River Basin Association in recommending the Modified Conservation Plan (MCP) for operation of the Missouri River Mainstem Dams. None of the other alternatives presented (GP alternatives) are reasonable or prudent and to select one of them, based on the information presented in the RDEIS, would be arbitrary and capricious. Although they are presented as alternatives that will avoid jeopardizing the continued existence of pallid sturgeon, interior least terns and piping plovers, they provide no perceptible benefit to the pallid sturgeon and only add 16 percent to the 43 percent improvement the MCP alternative would provide for tern and plover habitat. Other 61, A

The NRD supports the continued use of Adaptive Management and expansion of the concept beyond the operation of the Mainstem Dams. It supports the formation of a Recovery Committee to provide leadership and support to the adaptive management concept. Other 10

The NRD supports the policy of releasing higher volumes of water from Gavins Point Dam to maintain adequate river stages at river intakes when weather conditions indicate a chance for river freeze-over or for ice jam formation. This policy needs to be explicitly stated in the master Manual. Hydro 41

The NRD supports federal authorization and funding of a sustained monitoring program on the River. Other 119

The NRD supports the rehabilitation and restoration of habitat to improve the ecosystem, avoid jeopardizing the continued existence of species currently threatened or endangered and to prevent the decline of other species. The most cost-effective method to improve fish and wildlife habitat on the Missouri River is the full and complete implementation of existing mitigation plans, through a targeted approach. As proposed in our Missouri River Corridor Project, the District favors the rehabilitation and restoration of backwater areas, former oxbows and chutes on the river. These provide greater benefits to the Missouri River System than any of the alternatives investigated and are more likely to be implemented. A unified, basin-wide effort in this direction is the best and most worthwhile course of action. To this end, the NRD recommends that the Corps of Engineers Fish and Wildlife Mitigation Project be fully funded to a total of $1 billion over a twenty-year implementation period. WRH 6

Fremont County
BOARD OF SUPERVISORS
COURTHOUSE
SIDNEY, IOWA 51652
TELEPHONE (712) 374-2415

My name is John Whipple. I serve on the Fremont County Board of Supervisors in the state of Iowa. Thank you for time to make a few comments on the operation of the Missouri River.

One of the reasons for the dams on the river is flood control. If the Spring Rise is implemented the result will be that the part of the river that is below Omaha will have controlled flooding. This will be caused by the rise in the water table that results from higher river levels. A few years ago the Boards of Supervisors in five counties that border the river and the Iowa Farm Bureau contracted the U.S.G.S. to do a study on the impact of the Spring Rise. The results of that study showed that Fremont County would have a loss of some degree of production on 55,702 acres. When you add together the value of the land and the value of the crops that will be lost, the dollar amount is $86,560,676.

The response to the acres lost will be, "We will just put those acres in wetlands and pay the farmer for the value of an easement." If the farmer is paid $1,000 an acre for the easement, the total is $55,702,000. What happened to the other $30,858,000? Most people in the economic development field say that a dollar rolls over between 5 and 7 times. If we use a rollover factor of 5, this will be a loss of $154,290,000 in economic activity in Fremont County. A loss of this magnitude will be devastating to small rural towns that serve agriculture. It will also have an impact on the larger cities of the area. Has anyone ever figured the total economic impact from Sioux City to St. Louis and on to the Gulf? It brings into question the value of birds and fish that on a national level may or may not be endangered.

Navigation is the second important element of the Missouri River. I have heard people say that the traffic on the river is too low to be of any consequence. Just the fact that the river is there and usable helps keep a lid on rail and truck rates. This not only shows up on the bottom line for agriculture but for other industries that use products that can be shipped on the river.

Fremont County
BOARD OF SUPERVISORS
COURTHOUSE
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A third reason is electric power plants along the river that need a constant source of cooling water. If the Spring Rise is implemented the river levels will drop and could force a reduction in power output at the time when the electricity is needed the most.

On February 14, 2002 the Fremont County Board of Supervisors passed a resolution that, in short, ask the Corps of Engineers to reevaluate and to address the issues mentioned above. I have enclosed a copy of the resolution. Thank for your time and please give this some very serious thought.

Estimated Impacts of Missouri River Spring Rise

	Fremont	Harrison	Mills	Monona	Pottawattamie	Totals
Agricultural acres						
Impact Area One	1,924	1,719	1,352	1,335	2,477	8,807
Impact Area Two	31,477	14,227	20,309	14,127	16,139	96,279
Impact Area Three	22,301	0	4,864	0	3,331	30,496
Totals	55,702	15,946	26,525	15,462	21,947	135,582
Corn Production *						
yield per acre (bushels)	135.95	135.97	131.35	129.48	137.50	
average price per bushel	$ 2.35	$ 2.35	$ 2.35	$ 2.35	$ 2.35	
* figures are based on 5 year averages						
Soybean Production *						
yield per acre (bushels)	41.80	41.55	40.99	40.88	43.74	
average price per bushel	$ 5.89	$ 5.89	$ 5.89	$ 5.89	$ 5.89	
* figures are based on 5 year averages						
Average Production Value per Acre	$ 282.84	$ 282.13	$ 275.05	$ 272.53	$ 290.38	
Impact Area One **	$ 544,189	$ 485,113	$ 371,733	$ 363,830	$ 719,162	$ 2,484,027
Impact Area Two ***	$ 3,116,085	$ 1,404,643	$ 1,955,145	$ 1,347,475	$ 1,640,268	$ 9,463,816
Impact Area Three ****	$ 946,132	$ -	$ 200,688	$ -	$ 145,086	$ 1,291,907
Total Impact	$ 4,606,406	$ 1,889,956	$ 2,527,566	$ 1,711,305	$ 2,504,516	$ 13,239,750
** 100 % Production Loss						
*** 35 % Production Loss						
**** 15 % Production Loss						
Estimated Loss in	$ 13,819,219	$ 5,669,869	$ 7,582,699	$ 5,133,915	$ 7,513,548	$ 39,719,249
Community Revenue (3x)						
Loss per Acre						
Impact Area One	$ 282.84	$ 282.13	$ 275.05	$ 272.53	$ 290.38	
Impact Area Two	$ 98.99	$ 98.75	$ 96.27	$ 95.39	$ 101.63	
Impact Area Three	$ 42.43	$ -	$ 41.26	$ -	$ 43.56	
Land Value						
2000 farmland value	$ 1,554	$ 1,700	$ 1,698	$ 1,561	$ 1,809	
Total Value of Impacted Land	$ 86,560,676	$ 27,108,887	$ 45,039,657	$ 24,135,552	$ 39,702,025	$ 222,546,797

RESOLUTION NO. 2002-19

RESOLUTION URGING THE UNITED STATES ARMY CORPS OF ENGINEERS TO RECONSIDER ITS DRAFT IMPLEMENTATION PLAN FOR THE FINAL BIOLOGICAL OPINION ON THE OPERATION OF THE MISSOURI RIVER MAIN STEM RESERVOIR SYSTEM AND ADDRESS IDENTIFIED PROBLEMS

WHEREAS, the United States Army Corps of Engineers has proposed to release higher than normal flows down the Missouri River in the spring and fall and release substantially lower flows in the summer; and Other 4

WHEREAS, the proposed changes will damage property, the economy, and the recreational uses of the Missouri river in communities downstream for Gavin's Point Dam in Yankton, South Dakota; and WQ 30

WHEREAS, changes in Missouri River water levels could move nearby contaminants to Sioux City's well fields and result in a loss of public drinking water supplies and create a danger to public health; and FC 8 IntD 8 GW 7

WHEREAS, valuable farmland will be exposed to potential flooding, drainage problems and adverse groundwater conditions; and Nav 8, 6, 23

WHEREAS, the elimination of navigation on the Missouri River would shift transportation to rail and trucks, resulting higher transportation costs and straining the ground transportation infrastructure; and MoPower 1, 3

WHEREAS, reduced summer flows jeopardize electric power supply during peak usage months; and

WHEREAS, vaguely defined adaptive management plans could circumvent opportunities for public review and input regarding river management plans. Other 10

NOW, THEREFORE, BE IT RESOLVED, BY THE BOARD OF SUPERVISORS OF FREMONT COUNTY, IOWA, that the United States Corps of Engineers be urged to reconsider and address and solve the aforementioned problems before implementing the proposed changes in the Draft Implementation Plan.

PASSED AND APPROVED THIS 14th day of February, 2002.

ATTEST:
Fremont County Auditor

David Alstrope, Chairman

Keith Hickey

John E. Whipple

Mills County Board of Supervisors

Courthouse
Glenwood, Iowa 51534
Ph. 712-527-4729

RESOLUTION 02-09

RE: Missouri River

WHEREAS, the Mills county Board of Supervisors have reviewed the Revised Draft of the Missouri River Environmental Impact Statement dated August 2001 and,

WHEREAS, Mills County is opposed to granting any type of Adaptive Management practices and,

WHEREAS, Mills County recognizes several positive attributes of the Missouri River such as recreational, environmental, industrial, agricultural, transportation, commercial and education and,

WHEREAS, Mills County is rural in nature with agriculture as its largest industry. Proposed changes in flow will expose valuable farmland and commercial development to flooding. Also involved would be drainage problems, stagnant water issues and adverse ground water conditions,

NOW THEREFORE BE IT RESOLVED, By the Mills County Board of Supervisors in session this February 14th, 2002, we request that management and flow characteristics remain as stated in the Current Water Control Plan.

Naomi Christensen, Chair	X Aye	Nay
Don W. Brantz	X Aye	Nay
Brian Fichter	X Aye	Nay

Attest:

Carol Robertson,
Mills County Auditor

P.3/3

Missouri River Talking Points

The Pick-Sloan Plan has worked for Iowa in most of the project purposes including flood control, hydro-power generation, water supply, navigation, and recreation.

Changes in the operation manual should not be made until impacts are understood and costs are known.

The Missouri River Management alternatives that include a spring rise and summer low flow are detrimental to Iowa interests.

The proposed summer low flow would end navigation in the Iowa reach and thus add to transportation of Iowa products. | Nav 12

Power boat recreation would be adversely affected by the proposed low flow. | Rec 4,6,

Many agricultural acres could be adversely affected due to lack of drainage in the planting season. | IntD 8

Electric power rates would increase for Iowa consumers.

Water supply for Missouri River power plants could cause interruption in power generation forcing costly energy replacement during peak demand periods. | MoPower 1, 2

The proposed flow alterations have questionable benefits for the endangered species. | EnSp 17

Natural shallow water habitats can and should be created to enhance indigenous species. | WRH 6

Existing Missouri River and related water research should be analyzed by competent, non-federal scientists. | Other 86

A continued and expanded role for Missouri River stakeholders should be provided for. | Other 10

The followig is a resolution adopted by the Board of Directors of Burt-Washington Drainage District at its regular meeting held February 12, 2002. This Drainage District maintains drainage ditches in Burt and Washington Counties in the Missouri River drainage area from South of Decatur, Nebraska, to Blair, Nebraska.

RESOLUTION

WHEREAS, Burt-Washington Drainage District drains lands in both Burt and Washington Counties, Nebraska, and is dependent on the Missouri River as an outlet for its several drainage channels in said Counties, and

WHEREAS, the stage of the Missouri river flow directly affects the efficiency of said drainage channels and any increase in the discharge from Gavins Point during the spring adversely affects the efficiency of the District's drainage system,

NOW THEREFORE BE IT RESOLVED by the Board of Directors of this drainage district that the District supports the Current Water Control Plan (CWCP) with minor adaptive management variables, as utilized in the past, and urges adoption of said alternative plan (CWCP).

Question?
if the farmland
is wetland for 2
years in a row will
the Corp. declare
the ground permanent
wetland

From Allen Trumble #12
Burt/Washington Co. Drainage

Allen Trumble

AUDUBON SOCIETY OF OMAHA

A chapter of the National Audubon Society
serving Eastern Nebraska and Western Iowa
Phone: 445-4138
11809 Old Maple Road, Omaha, Nebraska 68164-2639

February 20, 2002

TESTIMONY – PUBLIC HEARING – MISSOURI RIVER MASTER MANUAL RDEIS

I am Ione Werthman, 11649 Burt St., Omaha, Nebraska, Conservation Chair of the Audubon Society of Omaha. I testified in Nebraska City, and at that time, we asked the Corps of Engineers to adopt the Flexible Flow Alternative (GP 2021) for the Missouri River management plan. I come here this evening to reiterate that testimony. GP 2021 is still the best option to use for the management of the Missouri River.

Environmental research on large rivers with similar problems of native species preservation, supports the requirement for **correctly timed and suitably sized** water releases from dams as the essential ingredient for native species preservation. Both the U. S. Fish and Wildlife Biological Opinion and the 2002 National Academy of Science study have spoken and endorsed the larger Flexible Flow Alternative. We believe a serious error will occur if sufficient water releases are not included in the future long and short-term dam operation plans. We believe it would be best to start with the higher flows with more flexibility built in than to be sorry later on. Money that could be spent on habitat development projects would be for naught if the key ingredient – water releases – could not be properly adjusted and **sufficiently** increased.

We do applaud the decision of the Missouri River Basin Association for endorsing a 10-year plan to experiment with the flow changes in an effort to help endangered wildlife. That is certainly a step in the right direction. However, as we see it, the alternative they have indicated that should be used for the ten-year tests. (GP 1528), will not give the Corps the flexibility in options they will need to make sure the project succeeds. If the experiments fail, … if the Corps has their hands tied and the experiments with GP1528 would prove that larger flows are definitely needed…. I would certainly hate to see us have to go through another 12 –14 years of debate… ten years from now. Our poor wildlife, by that time, will be all but extinct!

We also agree with the MRBA that a habitat mitigation program with proper monitoring must be put into place for both the Endangered Species Act and the Missouri River Mitigation impacts. This source of funding is long overdue.

We again urge the Corps to initiate GP 2021 in your Master Manual plans for restoration of our historic Missouri River.

Thank you.

Ione Werthman
Ione Werthman
Conservation Chair
Audubon Society of Omaha

Audubon is for people. And a better world for people to live in.

RESOLUTION NO. 9455

RESOLUTION URGING THE UNITED STATES ARMY CORPS OF ENGINEERS TO RECONSIDER ITS DRAFT IMPLEMENTATION PLAN FOR THE FINAL BIOLOGICAL OPINION ON THE OPERATION OF THE MISSOURI RIVER MAIN STEM RESERVOIR SYSTEM AND ADDRESS IDENTIFIED PROBLEMS

WHEREAS, the United States Army Corps of Engineers has proposed to release higher than normal flows down the Missouri River in the spring and fall and release substantially lower flows in the summer; and

WHEREAS, the proposed changes will damage property, the economy and the recreational uses of the Missouri River in communities downstream from Gavin's Point Dam in Yankton, South Dakota; and

WHEREAS, changes in Missouri River water levels could move nearby contaminants to Sioux City's well fields and result in a loss of public drinking water supplies and create a danger to public health; and

WHEREAS, valuable farmland will be exposed to potential flooding, drainage problems and adverse groundwater conditions; and

WHEREAS, the elimination of navigation on the Missouri River would shift transportation to rail and trucks, resulting higher transportation costs and straining the ground transportation infrastructure; and

WHEREAS, reduced summer flows jeopardize electric power supply during peak usage months; and

WHEREAS, vaguely defined adaptive management plans could circumvent opportunities for public review and input regarding river management plans.

NOW, THEREFORE, BE IT RESOLVED, by the Woodbury County Board of Supervisors, that the United States Corps of Engineers be urged to reconsider and address and solve the aforementioned problems before implementing the proposed changes in the Draft Implementation Plan

PASSED AND APPROVED: 19th day of February, 2002

WOODBURY COUNTY BOARD OF SUPERVISORS

Larry D. Clausen, Chairman

ATTEST:

Patrick F. Gill, County Auditor/Recorder

PREPUBLICATION COPY

Interim Report from the Committee on Endangered and Threatened Fishes in the Klamath River Basin

Scientific Evaluation of Biological Opinions on Endangered and Threatened Fishes in the Klamath River Basin

This prepublication version of Scientific Evaluation of Biological Opinions on Endangered and Threatened Fishes of the Klamath River Basin has been provided to the public to facilitate timely access to the committee's findings. Although the substance of the report is final, editorial changes may be made throughout the text and citations will be checked prior to publication. The final interim report will be available in April 2002.

Committee on Endangered and Threatened Fishes in the Klamath River Basin

Board on Environmental Studies and Toxicology

Division on Earth and Life Studies

National Research Council

National Academy Press
Washington, D.C.

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THE NATIONAL ACADEMIES
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Acknowledgment of Review Participants

This report has been reviewed in draft form by individuals chosen for their diverse perspectives and technical expertise, in accordance with procedures approved by the NRC's Report Review Committee. The purpose of this independent review is to provide candid and critical comments that will assist the institution in making its published report as sound as possible and to ensure that the report meets institutional standards for objectivity, evidence, and responsiveness to the study charge. The review comments and draft manuscript remain confidential to protect the integrity of the deliberative process. We wish to thank the following individuals for their review of this report:

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Although the reviewers listed above have provided many constructive comments and suggestions, they were not asked to endorse the conclusions or recommendations, nor did they see the final draft of the report before its release. The review of this report was overseen by John C. Baller, III, University of Chicago, and Paul G. Risser, Oregon State University. Appointed by the National Research Council, they were responsible for making certain that an independent examination of this report was carried out in accordance with institutional procedures and that all review comments were carefully considered. Responsibility for the final content of this report rests entirely with the authoring committee and the institution.

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Preface

The federal Endangered Species Act of 1973 has been invoked extensively for the protection of aquatic species in the western United States. Aquatic fauna of the West show extensive endemism because of genetic isolation associated with aridity and with the drainage of many rivers directly to the Pacific. Human intervention in the water cycle of the West is especially pervasive because of the general scarcity of water and the extensive redistribution of water in support of economic growth. Also, the West is growing and developing very rapidly. Thus, an unusual combination of biogeographic, hydrologic, and socioeconomic circumstances conspire to raise the likelihood that the legal protection of aquatic species will come into conflict with development and use of water in the West.

Fishes of the Klamath River Basin are the focus of perhaps the most prominent current conflict between traditional uses of water in the West and requirements established by law for the protection of threatened and endangered species. This case is especially interesting in that the federal government is playing two potentially conflicting roles. Through the U.S. Bureau of Reclamation, the Department of the Interior [illegible] the needs of irrigators [illegible] the Klamath Basin Project. Not only is the delivery of water a commercial obligation of the government, it also is traditional in the sense that water delivery has occurred through the project for almost a century. At the same time, the U.S. Fish and Wildlife Service of the Department of the Interior and the National Marine Fisheries Service of the Department of Commerce are attempting to protect three threatened or endangered fishes of the Klamath Basin drainage (the Lost River sucker, the shortnose sucker, and the Klamath Basin coho salmon). Interested parties, some of whom have livelihoods or cultural traditions at stake, include farmers, commercial fishing interests, Native Americans, environmental interests, hunters, and hydropower production interests. Conflicts became openly angry during 2001 when irrigators were deprived during a severe drought of traditionally available water through the government's issuance of jeopardy opinions on the endangered and threatened fishes. Economic losses were substantial and the changes in water management were a source of great frustration to irrigators.

The Endangered Species Act (ESA) sets a framework for determination of future water use and management in the Klamath River Basin. The ESA is tightly focused on the requirements for survival of the threatened and endangered fishes, the survival of which is not negotiable under the ESA. Therefore, if the fishes require more water, ESA directs that they shall have it, which would imply that water managers and users must augment their water supplies, reduce their demands, or reach other accommodations consistent with the requirements of the species.

While the ESA gives priority to the needs of threatened and endangered species, it also requires that any allocation of resources to these species be justified on a scientific or technical basis. The burden for scientific and technical justification falls mainly on the federal agencies, and especially the U.S. Fish and Wildlife Service and National Marine Fisheries Service, which are the source of biological opinions on the species. Assessment of the requirements of any species in a manner that is scientifically or technically rigorous is difficult and often cannot be accomplished quickly. The agencies have assembled considerable data and have interpreted the data as

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showing need for higher flows in the Klamath main stem and higher lake levels in the upper part of the basin.

External review increases confidence in scientific and technical judgments, and is especially important when such judgments underlie important policy decisions. Accordingly, the Department of the Interior and Department of Commerce have arranged through its agencies for the National Research Council to form the Committee on Endangered and Threatened Fishes in the Klamath River Basin, whose charge is to conduct an external review of the scientific basis for the biological opinions that resulted in changes of water management for year 2001. The committee is to conduct its work in two phases. The first phase, which is reported here, gives an interim assessment of the evidence behind the biological opinions. A second phase, which will occur over approximately the next year, will take a broader approach to evaluation of evidence for long-term requirements of the threatened and endangered fishes.

In formulating its interim assessment, the committee has been greatly assisted by individuals who have provided it with information orally and in written form. The committee is especially indebted to the invited speakers and members of the public who attended the first meeting of the committee and also to NRC staff members Heather McDonald, Jennifer Saunders, David Policansky, and Suzanne van Drunick, and to Leslie Northcutt of the University of Colorado.

All NRC committee reports are subject to external peer review as well as internal quality control procedures. The committee and the NRC are grateful to the reviewers who contributed their time and expertise to the review process.

The NRC committee is pleased to provide scientific and technical assessments that it hopes will be helpful to federal agencies as they attempt the difficult process of guiding water management toward practices that are consistent with the welfare of threatened and endangered species while also accommodating to the fullest practical extent other uses of water in the Klamath River Basin.

William M. Lewis, Jr., Chair
Committee on Endangered and Threatened
Fishes in the Klamath River Basin

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Summary

The Klamath River Basin, which drains directly to the Pacific from parts of southern Oregon and northern California, contains endemic freshwater fishes and genetically distinctive stocks of anadromous fishes. Endemic freshwater fishes include the shortnose sucker (*Chasmistes brevirostris*) and the Lost River sucker (*Deltistes luxatus*). These long-lived and relatively large species, which live primarily in lakes but enter flowing waters or springs for spawning, were sufficiently abundant during the nineteenth and early twentieth century to support commercial fisheries. During the last half of the twentieth century these species declined so much in abundance that they were listed in 1988 as endangered under the federal Endangered Species Act (ESA). In addition, the genetically distinctive Southern Oregon/Northern California Coasts (SONCC) coho salmon (*Oncorhynchus kisutch*), an evolutionary significant unit (ESU) of the coho salmon, depends on the Klamath River main stem for migration and on tributary waters for spawning and growth before entering the Pacific for maturation. The Klamath Basin coho has declined substantially over the last several decades and was listed as threatened under the ESA in 1997.

Factors contributing to the decline in abundance of the endangered suckers and threatened coho in the Klamath River Basin are diverse and in some cases incompletely documented. Factors thought to have contributed to the decline of the endangered suckers include degradation of spawning habitat, deterioration in the quality of water in Upper Klamath Lake, overexploitation by commercial and non-commercial fishing (now regulated), introduction of competitive or predaceous exotic species, blockage of migration routes, and entrainment of fish of all ages in water management structures. Factors contributing to the decline of coho salmon are thought to include earlier overexploitation by fishing as well as continuing degradation of tributary habitat and reduced access to spawning areas. The threatened coho salmon also may be affected by changes in hydrologic regime, substantial warming of the main stem and tributaries, and continuing introduction of large numbers of hatchery-reared coho, which are derived only partly from native stock.

The U.S. Bureau of Reclamation's (USBR) Klamath Basin Project (Klamath Project) is a system of main-stem and tributary dams and diversion structures that store and deliver water for agricultural water users in the Upper Klamath Basin under contract with the USBR. Subsequent to the listing of suckers in 1988 and coho in 1997, the USBR was required to assess the potential impairment of these fishes in the Klamath River Basin by operations of the Klamath Project. In the assessments, which were completed in 2001, the USBR concluded that operations of the project would be harmful to the welfare of the listed species without specific constraints on water levels in the lakes to protect the endangered suckers and flows in the Klamath River main stem to protect the threatened coho salmon.

After release of the USBR assessment on the endangered suckers (February 2001), and following procedures required by the ESA, the U.S. Fish and Wildlife Service (USFWS) in April 2001 issued a biological opinion based on an extensive analysis of the relevant literature and field data. The biological opinion states that the endangered

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suckers would be in jeopardy under USBR's proposed Klamath Project operations. The USFWS proposed a reasonable and prudent alternative (RPA) for operation of the Klamath Project. The RPA requires screening of water-management structures to prevent entrainment of suckers, adequate dam passage facilities, habitat restoration, adaptive management of water quality, interagency coordination in the development plans for operating the Klamath Project during dry years, further studies of the sucker populations, and a schedule of lake levels higher than those recommended by the USBR in its assessment.

The National Marine Fisheries Service (NMFS), which assumes responsibility for the coho because it is anadromous, issued a biological opinion in April 2001 indicating that the operation of the Klamath Project as proposed by the USBR assessment of January 2001 would leave the coho population in jeopardy. The NMFS formulated an RPA incorporating reduced rates of change in flow (ramping rates) below main-stem dams to prevent stranding of coho, interagency coordination intended to optimize use of water for multiple purposes, and minimum flows in the Klamath River main stem higher than those proposed by USBR.

During 2001, a severe drought occurred in the Klamath River Basin. The U.S. Department of the Interior (DOI) determined that the [illegible] and the RPAs most proven, that, water that would have gone to irrigation [illegible] entirely to attempts to maintain minimum lake levels and minimum flows [illegible] prescribed in the two RPAs. The severe economic consequences of this change in water management led DOI to request that the National Research Council (NRC) independently review the scientific and technical validity of the government's biological opinions and their RPAs. The NRC Committee on Endangered and Threatened Fishes in the Klamath River Basin was formed in response to this request. The committee was charged with filing an interim report after approximately 2 months of study and a final report after about 18 months of study (see statement of task, Appendix). The interim report, which is summarized here, focuses on the biological assessments of the USBR (2001) and the USFWS and NMFS biological opinions of 2001 regarding the effects of Klamath Project operations on the three listed fish species. The committee has provided in the report a preliminary assessment of the scientific information used by the agencies and other relevant scientific information, and has considered the degree to which the biological opinions are supported by this information. During November and early December 2001, the committee studied written documentation, heard briefings from experts, and received oral and written testimony from the public, and used this information as the basis for its interim report.

The Committee's Principal Findings

The NRC committee concludes that all components of the biological opinion issued by the USFWS on the endangered suckers have substantial scientific support except for the recommendations concerning minimum water levels for Upper Klamath Lake. A substantial data-collection and analytical effort by multiple agencies, tribes, and other parties has not shown a clear connection between water level in Upper Klamath Lake and conditions that are adverse to the welfare of the suckers. Incidents of adult

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mortality (fish kills), for example, have not been associated with years of low water level. Also, extremes of chemical conditions considered threatening to the welfare of the fish have not coincided with years of low water level, and the highest recorded recruitment of new individuals into the adult populations occurred through reproduction in a year of low water level. Thus, the committee concludes that there is presently no sound scientific basis for recommending an operating regime for the Klamath Project that seeks to ensure lake levels higher on average than those occurring between 1990 and 2000. At the same time, the committee concludes that there is no scientific basis for operating the lake at mean minimum levels below the recent historical ones (1990-2000), as would be allowed under the USBR proposal. Operations leading to lower lake levels would require acceptance of undocumented risk to the suckers.

For the Klamath Basin coho, the NMFS RPA involves coordination of operations as well as reduction of ramping rates for flows below the main-stem dams and increased flows in the Klamath River main stem. Coordination and reduced ramping rates are well justified. The committee, however, did not find clear scientific or technical support for increased minimum flows in the Klamath River main stem. Although the proposed higher flows are intended to increase the amount of habitat in the main stem, the increase [illegible] through adjustments in water management in dry years [illegible] and possibly insignificant. Furthermore, tributary conditions [illegible] critical factor for this population; these conditions are not affected by operations of the Klamath Project and therefore are not addressed in the RPA. Finally, and most importantly, water added as necessary to sustain higher flows in the main stem during dry years would need to come from reservoirs, and this water could equal or exceed the lethal temperatures for coho salmon during the warmest months. The main stem already is excessively warm. Juvenile fish living there probably tolerate its temperature only because of the presence of groundwater seepage or small tributary flows that provide pockets of cool water. Addition of substantial amounts of warm water could be detrimental to coho salmon by reducing the size of these thermal refuges. At the same time, reduction in main-stem flows, as might occur if the USBR proposal were implemented, cannot be justified. Reduction of flows in the main stem would lead to habitat conditions that are not documented, and thus present an unknown risk to the population.

Conclusion

On the basis of its interim study, the committee concludes that there is no substantial scientific foundation at this time for changing the operation of the Klamath Project to maintain higher water levels in Upper Klamath Lake for the endangered sucker populations or higher minimum flows in the Klamath River main stem for the threatened coho population. The committee concludes that the USBR proposals also are unjustified, however, because they would leave open the possibility that water levels in Upper Klamath Lake and minimum flows in the Klamath River main stem could be lower than those occurring over the past 10 years for specific kinds of climatic conditions. Thus, the committee finds no substantial scientific evidence supporting changes in the operating

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practices that have produced the observed levels in Upper Klamath Lake and the observed main-stem flows over the past 10 years.

The committee's conclusions are subject to modification in the future if scientific evidence becomes available to show that modification of flows or water levels would promote the welfare of the threatened and endangered species under consideration by the committee. The committee will make a more comprehensive and detailed consideration of the environmental requirements of the endangered suckers and threatened coho in the Klamath River Basin over the next year, during which time it will develop final conclusions.

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1. Introduction

The Klamath River Basin is isolated from other fresh waters by its direct drainage to the Pacific (Figure 1). This isolation and a diversity of freshwater habitats including perennial tributary and main-stem flows, extensive marshlands, and large shallow lakes, have favored genetic isolation of freshwater and anadromous fishes in the basin. Thus, the Klamath River Basin contains endemic freshwater fishes as well as genetically distinctive stocks of anadromous fishes that are shared with nearby basins on the Oregon and California coasts.

Endemic freshwater fishes of the Klamath River Basin include the shortnose sucker (*Chasmistes brevirostris*) and the Lost River sucker (*Deltistes luxatus*). These two species, which are long-lived, reach relatively large sizes, and have high fecundity (Moyle 1976), occupy primarily lakes as adults but use tributary streams as well as springs for spawning. The two sucker species were abundant in Upper Klamath Lake and elsewhere in the drainage prior to 1900 [illegible] and were the basis for commercial fisheries (USFWS 2001). During the 20th century, and particularly after the 1950s, the populations substantially declined in abundance. Reduction in abundance of the suckers has been generally attributed to changes in water quality, excessive harvesting, introduction of exotic fishes, alteration of flows, entrainment of fish into water management structures, and physical degradation of spawning areas (USFWS 2001). Both the shortnose sucker and the Lost River sucker were classified as federally endangered under the Endangered Species Act (ESA) in 1988 (USFWS 1988).

The main stem and tributaries of the Klamath River support endemic populations of a genetically distinctive population of coho salmon (*Oncorhynchus kisutch*). This group of coho is part of the Southern Oregon/Northern California Coasts (SONCC) evolutionarily significant unit (ESU), which also occupies several other drainages near the Klamath River Basin. These fish mature in marine waters off the California and Oregon coasts, move up the Klamath main stem and into tributaries for spawning, descend back to the main stem for the smolt phase, and then exit to the Pacific. The present distribution of the species within the Klamath Basin extends to the Iron Gate Dam, although it probably extended farther upstream prior to the construction of main-stem dams (NMFS 2001).

Stocks of native coho salmon have declined greatly in the Klamath River Basin over the past several decades. Potential causes of the decline include overexploitation (now largely curtailed), habitat degradation, manipulation of flows in the main stem, excessive warming of waters, degradation or blockage of tributaries, and introduction of large numbers of competitive hatchery-reared coho salmon only partially derived from the native stock (NMFS 2001). The SONCC coho ESU was classified as federally threatened under the ESA in 1997.

In response to the listing of the two sucker species and the SONCC coho, the Bureau of Reclamation (USBR), which operates the Klamath River water distribution project (Klamath Project), prepared biological assessments of the effects of Klamath Project operations on the suckers and on the coho (USBR 2001a, b). Because the listing processes for these fish referenced water level in Upper Klamath Lake and other lakes in the Upper Klamath Basin and amounts of flow in the main stem of the Klamath River

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below Iron Gate Dam as potential points of concern for the welfare of the species, the USBR assessments were intended to make a case for specific flows and water levels in portions of the basin strongly affected by operations of the Klamath Project

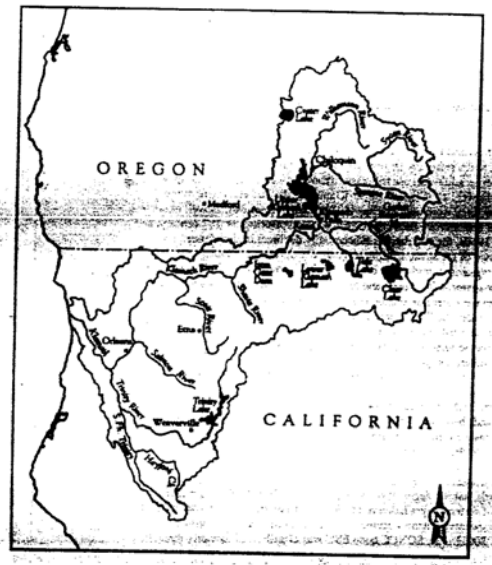

Figure 1. Map of the Upper Klamath River Basin showing surface waters and landmarks mentioned in this report (modified from USFWS sources).

In response to the USBR assessment of the endangered suckers, the U.S. Fish and Wildlife Service (USFWS) issued a biological opinion (USFWS 2001). A separate

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biological opinion was issued on the coho population by the National Marine Fisheries Service (NMFS 2001), which has the prime responsibility for ESA actions on these fish because they are anadromous. The two biological opinions differ sharply from the two corresponding USBR assessments in that they call for maintenance of higher lake levels and higher main-stem flows than the assessments.

Year 2001 brought a severe drought to the Klamath River Basin. The Department of the Interior (DOI) determined that the biological opinions on the endangered and threatened species must take priority over other uses of water, and that the amounts of water specified as reasonable and prudent alternatives (RPAs) in the biological opinions should be maintained to the degree physically possible prior to the provision of water for consumptive use as specified by contracts between irrigators and the USBR through its Klamath Project. Consequently, most of the water that otherwise would have been delivered to irrigators through the Klamath Project was not delivered. Substantial agricultural losses occurred, along with damage to the economic base of the Klamath River Basin (actual losses are still being estimated, but the work of Adams and Cho (1998) shows that direct losses to farmers alone would probably exceed $20 million).

Given the strong economic consequences for implementation of the biological opinions through their effect on the Klamath Project, the DOI determined that the scientific validity of the two opinions should be reviewed. The National Research Council (NRC) was asked, through the National Academy of Sciences, to form a committee to study the two opinions. Sponsors of the review include the USBR and the USFWS of the Department of the Interior and the NMFS of the Department of Commerce. A portion of the work of the NRC committee and the committee's interim conclusions are summarized in this report.

The two biological opinions and the two biological assessments contain valuable literature reviews. The committee cites these documents in lieu of the primary literature for much of the background subject matter of this report, but cites individual studies that are of particular importance to the committee's conclusions wherever appropriate.

Tasks of the NRC Committee

The work of the NRC Committee on Endangered and Threatened Fishes in the Klamath River Basin is divided into two phases (see statement of task, Appendix A). The first phase, reported here, involves a preliminary assessment of the scientific validity of the two biological opinions and their RPAs, particularly as they relate to the near-term operation of the Klamath Project. In a second phase, the committee will conduct a more broad-ranging study of evidence related to the welfare of the endangered and threatened species. Whereas the interim report focuses specifically on the biological opinions, the final report may extend beyond the biological opinions to deal more extensively with water pollution or other such subjects that are not directly under control of the Klamath Project. This effort will culminate in a second report that will give the committee's consensus view of the long-term requirements of the species.

Although the interim report specifically deals with the two biological opinions, the committee also gives its conclusions about the two biological assessments upon which the biological opinions are based. If the biological opinions were rejected fully or in part, the presumed alternative for operation of the Klamath Project would be as

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2. Evaluation of the Biological Opinion on Shortnose and Lost River Suckers

Populations of the shortnose and Lost River suckers currently are present within Upper Klamath Lake on the north side of the Klamath River drainage and within Clear Lake (which operates as a reservoir) and Gerber Reservoir on the Lost River, to the southeast (Figure 1). Small groups of individuals, some or all of which may be nonreproducing, are found elsewhere in the Klamath River drainage, including Tule Lake sump (USFWS 2001). Conditions in the lakes are relevant to the USFWS biological opinion largely through proposals for minimum lake levels that are intended to reduce mortality and improve spawning success, recruitment (addition of new individuals to the population), growth, and condition of the suckers.

The population size of endangered suckers in Upper Klamath Lake and elsewhere in the Klamath Basin are uncertain, but the abundance of these populations, which once were large enough to support commercial fisheries, are much lower than they were prior to agricultural development and water management began. Unfortunately, quantitative estimates of population sizes are not available. During the 1980s, qualitative evidence indicated that declines might have taken the sucker populations in Upper Klamath Lake to just a few thousand old (> 10 years) individuals (USFWS 1988). More recent estimates made possible incidentally by episodes of mass mortality suggest, however, that the populations are considerably larger than they appeared to be in the 1980s, and that some recruitment to the adult age classes has occurred in most or all years of the last decade (see below). Population sizes may range from a few tens of thousands to the low hundreds of thousands of individuals (USFWS 2001), but still are much lower than they were originally. Aside from decline in abundance over the long term, other indications of problems within the sucker populations include absence of spawning at a number of sites historically used for spawning, apparent increase in mass mortality of adults ("fish kills"), and weak recruitment in most years (USFWS 2001).

The water quality of Upper Klamath Lake has changed substantially over the last several decades. The lake appears to have been eutrophic (rich in nutrients and supporting high abundances of suspended algae) prior to any anthropogenic influence (Kann 1998). Mobilization of phosphorus from agriculture and other non-point sources (Walker 2001), however, appears to have pushed the lake into an exaggerated state of eutrophication that involves algal blooms reaching or approaching the theoretical maximum abundances. In addition, algal populations now are strongly dominated by the single blue-green algal species *Aphanizomenon flos-aquae* (Cyanobacteria) rather than the diatom taxa that apparently dominated blooms prior to nutrient enrichment (Kann 1998, Eilers et al. 2001).

Evidence indicates that changes in the water quality of Upper Klamath Lake have increased mass mortality among adult suckers. Under certain conditions, the bottom portion of the water column in the lake develops oxygen depletion and accumulates high

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prescribed in the USBR assessments. Thus, the committee must not only evaluate the validity of the biological opinions, but also extend the same sort of evaluation to the assessments.

The tasks of the committee encompass only the scientific and technical issues that are relevant to the three endangered and threatened fish species mentioned above. The committee is not charged with investigating or reporting on economic dislocation or with forecasting the economic consequences of continued implementation of flows specified in the biological opinions. Given the background materials that were provided to the committee, however, all committee members are acutely aware of the great importance of any change in historical management of flows to water users in the Klamath Basin. Also, the committee is aware of the great and long-standing interest of Native American tribes of the Klamath River Basin in the maintenance and expansion of fish stocks, including Tribal Trust species not covered in this report, and of the interests of numerous other parties in water resources, wetlands, and the welfare of fishes and other aquatic life. While the committee will not analyze economic or socioeconomic questions, the strong and multiple interests of individuals and communities in the Klamath Basin in the conclusions reached by the committee are well recognized by the committee members, [illegible] not only from an economic and social viewpoint, but also from the perspective of [illegible] biological resources, the work of the NRC committee is likely to [illegible] its [illegible] task and by the inherent requirements of the Endangered Species Act, which prohibits federal actions that jeopardize continued existence of listed species through interference with their survival or recovery (50 CFR 402.02). The Klamath River Basin is home to hundreds of species of fish and wildlife and to distinctive native ecosystems, including wildlife refuges of national significance. Many of these natural resources have been greatly restricted or altered through human action. In fact, changes in the flow regime in the Klamath River may affect other fishes that have been proposed for listing as threatened species but are not yet listed (e.g., ESUs of steelhead and chinook salmon). The committee, however, is charged with studying specifically the requirements of the three fish species mentioned above, and not of other species in the Klamath River Basin.

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concentrations of ammonia. Mixture of these bottom waters with the surface waters under the influence of changes in weather is the likely cause of mass mortality (Vogel et al. 2001, Horne 2001). While mass mortality has been recorded over the entire observed history of the lake, its frequency appears to have increased (Perkins et al. 2000). Major incidents were recorded for years 1995, 1996, and 1997; low dissolved oxygen appears to have been the direct cause of mortality in these years (Perkins et al. 2000).

Impairment of water quality also may stress fry through the creation of high pH in surface waters as a result of high rates of photosynthesis, although exposures to the highest pH probably are too brief to cause mortality (Saiki et al. 1999). In addition, the present trophic state of the lake potentially poses a threat of mortality in winter, when anoxia can occur under ice if oxygen demand is high. Although not yet observed, winter mortality could occur in the future (Welch and Burke 2001).

Factors of concern other than water quality include the presence of exotic species capable of inducing types of predation and competition that are foreign in an evolutionary sense to these endemic species. Hybridization occurs but the degree of threat associated with it is unknown; the native suckers probably showed some interbreeding prior to habitat [illegible] (Moyle et al. 2000). In addition, access of the suckers to historically [illegible] had to many [illegible] from blocked or the spawning [illegible] [illegible] 2001). Overfishing or habitat degradation may have eliminated portions of the population that were using specific spawning areas and, although fishing no longer occurs, these subpopulations cannot be regenerated without manipulation of existing stocks in combination with habitat restoration.

Suckers of all sizes are entrained by water management structures (USFWS 2001). While screening of these structures has long been recognized as an important means of reducing mortality of the endangered suckers, it has not yet been accomplished. Also, interaction of multiple stresses may increase vulnerability of the endangered suckers to disease, degrade their body condition, and cause them to show a high incidence of anatomical abnormalities (Plunkett and Snyder-Conn 2000).

The USFWS biological opinion states that the Klamath Project is detrimental to the endangered suckers through its direct contributions to mortality and adverse environmental conditions. On this basis, USFWS presents a reasonable and prudent alternative (RPA) consisting, in summary, of requirements for minimum lake levels, coordination and adaptive management, screening to prevent entrainment of fish, creation of improved passage facilities, steps toward improvement of habitat and water quality, and additional studies. The RPA is intended to avoid jeopardizing listed species either directly or through adverse modification of critical habitat (50 CFR 402.02).

With the exception of the recommendation on lake-level maintenance, there is good scientific or technical support for all of the requirements listed in the RPA. Combination and sequence of management are advisable, especially because the information base is evolving rapidly and because annual optimization of strategies for using water is an obvious need. Given the documented loss of suckers to entrainment and the blockage of their access to spawning waters at known locations (USFWS 2001), requirements of the RPA calling for mitigation of these problems also seems highly defensible. Potential for improvement of habitat and water quality must be viewed as incremental rather than comprehensive, but even incremental improvements offer the

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prospect of increasing the viability of the sucker populations, and thus seem justified. Recommendations on water level are more difficult to evaluate, however.

Figure 2 shows the water levels given by USFWS in its RPA (2001) as well as two other lake level regimes (USBR recommended and historical). The USFWS requirements are given as absolute minima, i.e., they do not vary from one type of water year to another. In contrast, assessment proposals of the USBR are framed in terms of various categories of water year; categories shown in Figure 2 are characterized as critically dry (lowest 4%) and dry (approximately 12% of years just wetter than the critically dry ones).

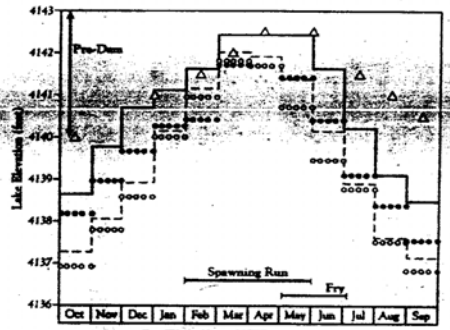

Figure 2. Overview of monthly levels for Upper Klamath Lake proposed by USBR through its biological assessment of 2001, USFWS through its biological opinion of 2001, and observed conditions for the years 1960 – 1998. Hydrologic categories used by USBR in its proposals (dry years, critical dry years) are explained in the text. Mean depths, excluding wetlands, corresponding to water levels are approximately as follows (feet): 4137 = 3.5; 4138 = 4.0; 4139 = 4.8; 4140 = 5.7; 4141 = 6.6; 4142 = 7.6 (Welch and Burke 2001, Figure 2-5).

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The span of lake level records that the USBR chose to use in its analysis (1960-1998) reflects the full interval of operations for the completed Klamath Project. Even earlier records are available, extending back to the creation of Link River Dam in 1919 (Figure 3), but the interval between 1919 and 1960 would not be typical from the viewpoint of current project operations. Records prior to 1919, extending back to 1905, also are available (Figure 3); they show higher maximum and minimum lake levels than have been typical of Upper Klamath Lake since closure of the dam. In addition, operation of the Klamath Project has created a higher amplitude of intraannual variation in lake level and a change in seasonality of intraannual change in lake level as compared with the original condition of the lake (USFWS 2001, III. 2., page 38).

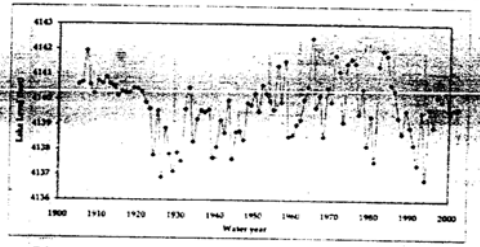

Figure 3. Historical record of level at the end of September for Upper Klamath Lake (from USBR sources).

While the operating interval between 1960 and 1998 is very useful for judging the degree of variability that can be expected in lake levels over a long period of years with the Klamath Project in place, the possibility for use of lake-level data in environmental analysis is limited to a much shorter interval. Interaction between lake level and environmental variables or indicators of the welfare of the endangered fish is dependent on concurrent information for lake level, environmental conditions, and fish. While information of a sporadic or anecdotal nature is available over as much as 100 years, routinely-collected data on environmental characteristics and fish are available only since 1990 or later. Thus, while the long-term lake level record seems to invite statistical analysis of the welfare of fish in relation to lake level, the information at hand is actually limited to a period of ten years or less. This limitation explains the focus of this report and of the USFWS biological opinion on data extending over approximately the last ten years. All three lake-level regimes (USFWS RPA, USBR recommended, historical)

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reflect seasonality that is partly inherent in the runoff reaching Upper Klamath Lake and partly a byproduct of water withdrawals. The degree of seasonality in the USFWS RPA is considerably lower, however, than the seasonality of the other two regimes depicted in Figure 2, and minimum levels are highest overall for the USFWS RPA. The USBR proposed minima are below the means for the historic operating regime in each of the two dry-year categories because the USBR used the lowest recorded monthly lake levels for each category as its proposed minima. From the viewpoint of lake levels, water years are almost independent of each other because the lake has little capacity for interannual storage.

The USBR proposal would allow more drawdown of lake level than has been characteristic in the past. Although the lake levels proposed by USBR have been observed over the last 40 years, the use of these 40-year minima as year-to-year minima indicates that drawdown to the 40-year minima would be possible in any year of future operations if USBR's proposals were accepted. If USBR chose to operate the project by using greater average drawdown than has been observed over the past 40 years, the result would be significantly lower mean lake levels in each of the hydrologic categories.

Control of lake levels as a means of advancing the welfare of the endangered suckers raises more difficult scientific issues than the other recommendations based on the USFWS RPA. The recommendation for water-level control is based on concerns related to habitat (shoreline spawning areas, emergent vegetation), and water quality (low oxygen in summer, need for deep water refugia in summer and fall, possibility of adverse conditions under ice cover).

Impairment of water quality, primarily through eutrophication of Upper Klamath Lake, is a cause of mortality and stress for sucker populations. As indicated above, the present scientific evidence for this association is credible. An essential premise of the lake-level recommendations, however, is that the adverse water quality conditions known to stress or kill the endangered suckers are associated with the lowest water levels within the recent historical range of levels (since 1990, when consistent documentation first began). Presumption of this connection, which is essential to the arguments for specific lake levels that are proposed in the RPA, is inconsistent with present information on Upper Klamath Lake.

Control of phosphorus in Upper Klamath Lake offers the potential of suppressing population densities of algae, thus improving water quality in the lake (Welch and Burke 2001). No relationship between lake levels and population densities of algae (as shown by chlorophyll) is evident, however, in the nine-year water-quality monitoring record that has been fully analyzed (Figure 4). Thus, the idea of relieving eutrophication through phosphorus dilution caused by higher lake levels is not consistent with the irregular relationship between chlorophyll and lake level. Also, lake level fails to show any quantifiable association with extremes of dissolved oxygen or pH (see data presented by Welch and Burke 2001). For example, the most extreme pH conditions recorded for the lake over the last ten years came in 1995 and 1996, which were years of intermediate water level, and not with years 1992 and 1994, when water levels were lowest (these two years had the lowest recorded water levels since 1950). Furthermore, a substantial mass mortality occurred in 1971, the year of highest recorded water levels since 1950 (USFWS 2001) and, within the last ten years, mortality of adults was highest in 1995, 1996, and 1997, none of which was a year of low water level. The absence of notable adult

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mortality in any year of low water during the 1990s might in fact suggest an association the reverse of the one postulated in the biological opinion, although the evidence is statistically inconclusive. The USFWS itself has found no association of mass mortality with lake levels (USFWS 2001, III.2.70). Intensified eutrophication now affects the characteristics of the lake every year, and thus may constitute a threat to the suckers regardless of interannual variation in water level

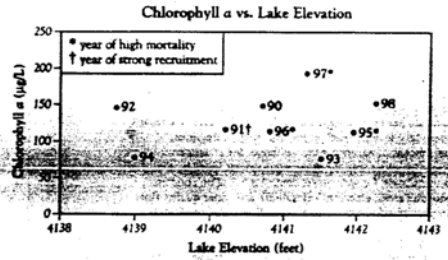

Figure 4. Relationship of chlorophyll *a* and median August lake level in Upper Klamath Lake between 1991 and 1998. Chlorophyll data are averages as reported by Welch and Burke 2001. Recruitment and mortality information is as reported by USFWS 2001.

Higher water levels potentially could be supported on grounds of improved survival of fry or juveniles rather than suppression of adult mortality. Higher water levels could reduce the likelihood that spawning areas around the lake would be dewatered and could be favorable to fry or juveniles. Abundance of juvenile suckers has been monitored since 1991 on the basis of seining (Simon et al. 2000a). This information, which must be used cautiously because it is not quantitative, indicates low abundances of juveniles in the drought years 1992 and 1994 but not in drought year 1991. Abundances also were low in non-drought years 1997 and 1998. Simon et al. (2000a) have reported generally declining abundance during the non-drought interval 1995-1998. They have also shown (Simon et al. 2000a, b) that the abundance of age 1+ suckers consistently has been very low, suggesting a bottleneck at this life stage, but interpretation of the data is complicated by very low efficiency for catching fish older than one year. Overall, the study of young fish shows no clear pattern associated with lake level.

The most reliable current information on recruitment is through analysis of age-class structure of adult suckers (USFWS 2001, III 2., page 43). This data record is not

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consistent with the underlying assumptions of proposals for maintenance of higher water levels. The strongest recruitment (as inferred from relative abundances of adult year classes) observed over the last ten years was for 1991 (Figure 5), which falls within the lowest 15% of lake levels since 1950. Furthermore, as shown by the continuing strength of the 1991 year class in 1995 and beyond, the year class showed good survival through the dry years of 1992 and 1994. While the use of emergent vegetation by fry is cited as a reason for maintaining high water levels, the combination of high recruitment in 1991 and low recruitment in other years (as inferred from year class data) casts doubt on the importance of this factor, at least within the operating range of the 1990s. Furthermore, fry of the Upper Klamath Lake populations appear to use submerged as well as emergent macrophytes (Cooperman and Markle 2000), and thus may not be highly sensitive to the reduction in access to emergent vegetation that occurs in dry years (Dunsmoor et al. 2000). Overall, the presumed causal connections between lake levels and recruitment of the sucker populations in Upper Klamath Lake do not have strong scientific support at present.

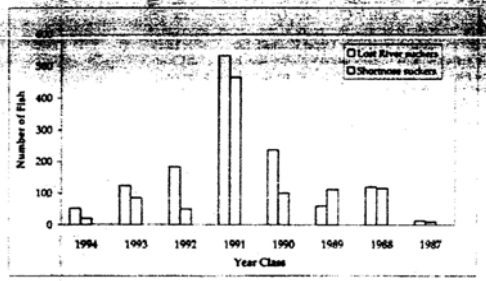

Figure 5. Relative strength of year classes for endangered suckers as reconstructed from survey of mass mortality in 1995, 1996, and 1997 (combined). Source: USGS and USFWS records.

Mortality possibly could be caused by multiple factors that interact with lake level. For example, mortality of suckers is influenced by changes in water column stability; an extended period of stability leading to decline of oxygen near the bottom can be followed by sudden mixing of the entire water column associated with a change in weather (high wind velocity). Thus, interpretation of information on lake level is complicated by the influence of weather. There is no evidence as yet, however, that the significance of undesirable mixing events is higher when lake levels are low than when

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they are high. As a result, mixing as a cause of water quality conditions leading to mortality cannot be interpreted at this time in terms of lake level.

While there is no clear evidence, despite a monitoring record of substantial length, for connection between lake levels and the welfare of the two sucker species in Upper Klamath Lake, lake levels cannot be reduced below those observed in the last ten years without risk of the occurrence of adverse events that are not described in the detailed monitoring record (1990-present; analyses complete through 1998). A negative association between welfare of the species and lake level could emerge if lake levels are reduced below those of recent historical experience. The absence of any presently evident empirical connection between the observed lake levels and the welfare of the endangered suckers cannot be taken as justification for continuous or frequent operation of the lake at the lowest possible levels, given that the effects of operating the lake at lower levels are undocumented. Thus, while the observational record contradicts important underlying assumptions of the RPA, it does not provide an endorsement for the lake levels proposed in the USBR biological assessment, which if implemented could take interannual mean lake levels well below those of recent historical observation.

Potential benefits of higher lake levels in Clear Lake, Gerber Reservoir, and Tule [illegible] are more difficult to evaluate because the record of analyses and observations [illegible] is not so extensive as it is for Upper Klamath Lake. These lakes [illegible] notable [illegible] in association with low lake levels, but Clear Lake populations showed poor body condition following severe drawdown in the early 1990s. The USFWS gives reasonable support for lake levels in Clear Lake no lower than the recent drought-related minimum (1992-1993: 4519 feet). The RPA reasonably adds a margin of two feet (4521) to allow for water loss in the absence of withdrawals under drought conditions.

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3. Evaluation of the Biological Opinion on Klamath Basin Coho Salmon

Coho salmon enter the main stem of the Klamath River for spawning typically in their third year, primarily between October and December. Over most of this interval, main-stem flows below Iron Gate Dam often are high (ca. 2500-3000 cfs: NMFS 2001). Thus, standard methods for observing and counting spawning fish are not easily applied, and the size of the spawning population is unknown. Approximations put the entire ESU at about 10,000 spawning coho salmon of non-hatchery origin per year (Weitkamp et al. 1995), of which only a small portion is associated with the Klamath Basin, where several important tributary runs have been reduced to a handful of individuals (NMFS 2001).

Spawning coho in the Klamath Basin are restricted to use of tributaries that they can reach from the main stem up to Iron Gate Dam. Original spawning runs probably were largest in large tributaries, but presently are restricted mainly to numerous small tributaries entering the main stem directly (Hardy [illegible] 2001). [illegible] have been [illegible] in critical places. Although a minor amount of spawning and growth may occur in the main stem, the main stem serves adults primarily as a migration route.

Fry appear in late fall or winter, when water levels are highest. Most fry probably remain in the tributaries but some may move to or be swept into the main stem. Juvenile coho become smolts and emigrate to the ocean between March and mid-June; peak migration occurs in mid-May (NMFS 2001). In general, juvenile coho can be expected to occupy places where summer temperatures are low (12-14°C appears to be optimal for growth). They are also favored by deep pools with complex cover, especially large woody debris, which is essential for survival over winter (Sandercock 1991). Such conditions exist primarily in tributary streams of the Klamath Basin.

The reduction in stocks of native coho salmon in the Klamath River Basin has been caused by multiple interactive factors. Drastic reduction in spawning and juvenile habitat has occurred through impoundment and physical alteration of tributaries. Also, large numbers of smolts are released annually from the Iron Gate hatchery. These fish, which are derived from a combination of Klamath Basin and Columbia River coho, likely compete with or have other negative effects on wild native coho at all stages of their life history during which they are in contact, including the smoltification-emigration period, the ocean growth period, and spawning (Fleming and Gross 1993, Nielsen 1994, NRC 1996).

Physical habitat in the main stem is a potential concern for the welfare of the coho in several life stages. The spawning run must have adequate flows for passage, which would be impaired by excessively shallow water (e.g., through amplification of predation losses). Access to tributaries is a related consideration for the spawning run, given that little if any spawning occurs in the main stem. Also, fry that enter the main stem must find cool, well-shaded pools, or return to a suitable tributary. Smolts moving downstream must find suitable temperature, flow, and habitat conditions compatible with their physiological transformation during migration (Wedemeyer et al. 1980)

While habitat is an undeniable requirement for all life stages, the assessment of

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habitat suitability is difficult and subject to considerable uncertainty. Numerical methods are now being applied to the estimation of habitat area in relation to flow (INSE 1999). These methods are commonly used in evaluating habitat, but in final form they require extensive field measurements that are not yet available. Initial modeling suggests that, while greater amounts of habitat for salmonids accompany higher flows, the percentage increase of habitat space corresponding to increases in flow that are possible during dry years is relatively small (a few percent: INSE 1999, NMFS 2001).

Water temperature is a major concern for the welfare of the Klamath Basin coho salmon. Summer temperatures appear to be especially critical. In the nearby Matolle River, which contains coho that are part of the SONCC ESU, the juvenile coho reside almost entirely in tributaries but do not persist where summer daily maximum temperatures exceed 18°C for more than a week (Welsh et al. 2001). Summer temperatures in the Klamath River main stem are suboptimal or even lethal to juveniles (NMFS 2001). High temperatures are the result of reduced flow in the main stem and in tributaries as a result of diversions, warming of water in lakes prior to its flow to the main stem, and loss of shading. Climate variability, although probably responsible for some interannual thermal variation, is unlikely to be an important factor by comparison with changes in flow and loss of riparian vegetation. Juvenile coho probably will not occupy the main stem habitat only through behaviorally-mediated thermal refuge, by [illegible] selection of areas of groundwater entry ("cold pools") or small tributary flows that are cooler water than most of the main stem.

Modeling has shown that higher releases of water to the main stem can reduce water temperature slightly (Deas and Orlob 1999), provided that manipulation of flow itself does not raise the base temperature (see below). It is unlikely, however, that the small degree of cooling that could be accomplished in this way would affect survival of coho salmon because temperatures would continue to be suboptimal. Further modeling is in progress.

The biological opinion issued by the National Marine Fisheries Service for the Klamath Basin coho salmon states that the Klamath Project harms coho in the Klamath main stem (NMFS 2001). The NMFS presents an RPA with three components: (1) higher monthly minimum flows for the main stem of the Klamath River for April through November as a means of maximizing habitat space in the main stem and suppressing maximum water temperatures, (2) suppression of ramping rates below Iron Gate Dam, and (3) coordination involving other agencies.

Figure 6 shows the minimum flows that are given by NMFS as part of its RPA, and shows minimum flows proposed by USBR as part of its biological assessment as well as historical low flows in dry and critical dry years (note that in selected months flows can be higher in critical dry years than in dry years because of water management practices). The RPA-proposed low flows are well above historical operating conditions, which in turn are above the minima proposed by USBR.

The proposed low-flow limits on the Klamath River may not be of significant benefit to the coho population. While the provision of additional flow seems intuitively to be a prudent measure for expanding habitat, the total habitat expansion that is possible given the limited amount of water that is available in dry years is not demonstrably of much importance to maintenance of the population. In wet years, any benefits from

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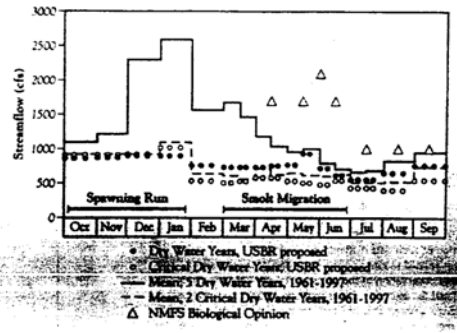

Figure 6. Three flow regimes for the Klamath River below Iron Gate Dam: USBR proposed (USBR 2001b: minima for dry and critical years), historical mean minima for dry and critical dry years, and RPA minimum flows from NMFS (2001). Hydrologic categories used by USBR in its proposals (dry years, critical dry years) are explained in the text.

increased flow will be realized without special limitations. Year classes that have high relative strength should have emerged from the wet years of the recent past flow regime if flow is limiting. This does not appear to have been the case in the past decade, however. Thus, factors other than dry-year low flows appear to be limiting to survival and maintenance of coho.

Higher flows may work to the disadvantage of the coho population from July through September if the source of augmentation for flow is warmer than the water to which it is added. Flows in the main stem include not only water passing the Iron Gate Dam, but also accruals from ungaged sources consisting of groundwater and small tributaries. This accrual water is likely to be much cooler than the water coming from upstream sources, which has been warmed by retention in lakes. Thus, the addition of larger amounts of water from the sequence of reservoirs above Iron Gate Dam may be disadvantageous to the fish. This issue apparently has not yet been studied in any rigorous manner, yet it is critical to the evaluation of higher flows in the warmest months.

Increased flows also could have a detrimental effect on the availability of thermal refugia. Thermal refugia created by groundwater seepage and small tributary flows may be most accessible and most extensive at low flows. Increase in flows may reduce the size of these refugia by causing more effective mixing of the small amounts of locally

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derived cool water with much larger amounts of warm water from points upstream.

Progressive depletion of flows in the Klamath River main stem would at some point be detrimental to coho salmon through stranding or predation losses. Thus, incremental depletions beyond those that are reflected in the recent historical record could be accomplished only with increased risk to coho salmon. At the same time, the available information provides little support for benefits presumed to occur through the increase of flows beyond those of the last decade. While single-year or multiple-year averages of low-flow extremes beyond those presently reflected in the record cannot be supported, there also is presently little evidence of a scientific nature that increased low flows will improve the welfare of the coho salmon.

Modeling of temperature and habitat may be useful, but convincing evidence of a relationship between the welfare of the coho and environmental conditions must be drawn to some extent from direct observation. For example, year class strength, abundance of various life history stages, or other biological indicators of success, when related to specific flow conditions, would greatly improve the utility of modeling and other information. The small size and scattered nature of the present native coho population will make collection of such data difficult, however.

[illegible] the RPA requirements related to ramping rates and coordination seem appropriate. Given direct field observation of the stranding of coho at the current ramping rates (NMFS 2001) and the mortality that is implicit in these observations, reduction in ramping rates seems a reasonable and prudent measure for protection of coho. Coordination, a final requirement of the RPA, is an obvious necessity given the need to optimize use of water for multiple purposes.

4. Conclusions

The NRC Committee on Endangered and Threatened Fish Species in the Upper Klamath River Basin has studied the USBR biological assessment on the shortnose and Lost River suckers, the USFWS biological opinion with its reasonable and prudent alternative (RPA) on these same species, and supporting documentation and has heard oral presentations and open public comment on the issues related to these endangered fishes in the Klamath River Basin. The committee finds strong scientific support for the requirements of the RPA except the requirement for specified minimum lake levels in Upper Klamath Lake. Extensive field data on the fish and environmental conditions in Upper Klamath Lake do not provide scientific support for the underlying premise of the RPA that higher lake levels will help maintain or lead to the recovery of these two species. At the same time, operation of Upper Klamath Lake at mean minimum levels below the recent historical [illegible] (1990-2000), as could occur through implementation of the USBR proposal, would pose unknown risks in that these conditions have not been observed over the last 10 years, the interval over which good environmental documentation is available. The present scientific record is consistent with use of operational principles in effect between 1990 and 2000.

The NRC committee has studied the USBR biological assessment on the Southern Oregon/Northern California Coasts evolutionary significant unit of the coho salmon in the Klamath River Basin and the accompanying biological opinion prepared by the National Marine Fisheries Service, along with its RPA requirements, as well as supporting documentation, oral presentations of scientists contributing to research on this issue, and open public testimony. The RPA contains requirements for minimum flows in the Klamath River below Iron Gate Dam, limitations on ramping rate below Iron Gate Dam, and interagency coordination. The committee finds reasonable scientific support for the suppression of ramping rates as given in the RPA and for coordination. The committee does not find scientific support for the proposed minimum flows as a means of enhancing the maintenance and recovery of the coho population. The proposal of the USBR, however, as given in its biological assessment, could lead to more extreme suppression of flows than has been seen in the past, and cannot be justified either. On the whole, there is no convincing scientific justification at present for deviating from flows derived from operational practices in place between 1990 and 2000.

The conclusions of the NRC committee as presented above apply to interim management of the Klamath Project. The committee will make a separate analysis of the scientific evidence, including any new evidence, supporting various actions that might lead to improvement in stocks of endangered suckers and coho salmon in the Klamath River Basin over the long-term future.

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6. Appendix

STATEMENT OF TASK

The committee will review the government's biological opinions regarding the effects of Klamath Project operations on species in the Klamath River Basin listed under the Endangered Species Act, including coho salmon and shortnose and Lost River suckers. The committee will assess whether the biological opinions are consistent with the available scientific information. It will consider hydrologic and other environmental parameters (including water quality and habitat availability) affecting those species at critical times in their life cycles, the probable consequences to them of not realizing those environmental parameters, and the inter-relationship of these environmental conditions necessary to recover and sustain the listed species.

To complete its charge, the committee will:

1. Review and evaluate the science underlying the Biological Assessments (Reclamation 2001) and Biological Opinions (USFWS 2001; NMFS 2001).

2. Review and evaluate environmental parameters critical to the survival and recovery of listed species.

3. Identify scientific information relevant to evaluating the effects of project operations that has become available since USFWS and NMFS prepared the biological opinions.

4. Identify gaps in the knowledge and scientific information that are needed to develop comprehensive strategies for recovering listed species and provide an estimate of the time and funding it would require.

A brief interim report will be provided by January 31, 2002. The interim report will focus on the February 2001 biological assessments of the Bureau of Reclamation and the April 2001 biological opinions of the U.S. Fish and Wildlife Service and National Marine Fisheries Service regarding the effects of operations of the Bureau of Reclamation's [illegible] species. The committee will provide a [illegible] of [illegible] by the Bureau of Reclamation, the Fish and Wildlife Service, and National Marine Fisheries Service, as cited in the [illegible] of effects in the biological [illegible] Fisheries Service [illegible] any relevant scientific [illegible] the Fish and Wildlife Service and National Marine Fisheries [illegible] biological opinions. The committee will also consider any other relevant scientific information of which it is aware.

The final report, due March 30, 2003, will thoroughly address the scientific aspects related to the continued survival of coho salmon and shortnose and Lost River

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ENDANGERED AND THREATENED FISHES IN THE KLAMATH RIVER BASIN

suckers in the Klamath River Basin. The committee will identify gaps in the knowledge and scientific information that are needed and provide approximate estimates of the time and funding needed to fill those gaps, if such estimates are possible. The committee will also provide an assessment of scientific considerations relevant to strategies for promoting the recovery of listed species in the Klamath Basin.

Receives 70-100% of power from WAPA

Increase in Purchase Power
cost up to ~ 21%

State	Municipality
MN	Adrian
MN	Benson
MN	Breckenridge
MN	Fergus Falls State Hospital
MN	Kandiyohi
MN	Lakesfield
MN	Luverne
MN	Nielsville
MN	Olivia
MN	Ortonville
MN	Shelly
MN	SW Minnesota State University
MN	Tyler
MN	Wadena
MN	Warren
MN	Westbrook
MN	Willmer Regional Treatment Center

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Receives 70-100% of power from WAPA

Increase in Purchase Power
cost up to ~ 21%

State	Municipality
MT	3-Mile Pump
MT	Frazer & Valley - BIA
MT	Hammond Pump
MT	Kinsey Irrigation District
MT	Montana State Water Conservancy Board-Helena
MT	Montana State Water Conservancy Board-Sidney
MT	Prairie County Water & Sewer District #2

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Receives 70-100% of power from WAPA

'ncrease in Purchase Power
cost up to ~ 21%

State	Municipality
ND	Belcourt & Florida Totton-BIA
ND	Burleigh Water Users
ND	Cavalier
ND	Dickey Rural Water Project
ND	Grafton State School
ND	Hillsboror
ND	Lakota
ND	Mclean-Sheridan Rural Water
ND	Missouri West
ND	ND State Water Commission - SW Pipeline Project
ND	North Dakota Mill & Elevator
ND	North Dakota State Hospital - Jamestown
ND	North Dakota State School for the Deaf
ND	North Dakota State School of Science
ND	North Dakota State University - Boulneau
ND	Northwood
ND	Park River
ND	Riverdale
ND	Sharon
ND	University of North Dakota - Grand Forks
ND	Valley City

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Receives 70-100% of power from WAPA

ncrease in Purchase Power
cost up to ~ 21%

State	Municipality
NE	Arnold
NE	Beatrice State Development Ctr.
NE	Hastings
NE	Hastings Regional Center
NE	Nebraska State Penitentiary
NE	Norfolk Regional Center
NE	Peru State College
NE	University of Nebraska - Lincoln
NE	University of Nebraska - Omaha
NE	Wayne State College
NE	Winside

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Receives 70-100% of power from WAPA

ncrease in Purchase Power
cost up to ~ 21%

State	Municipality
SD	Aberdeen
SD	Badger
SD	Big Stone City
SD	Bryant
SD	Burke
SD	Ellsworth Air Force Base
SD	Estelline
SD	Faith
SD	Groton
SD	Hecia
SD	Langford
SD	McLaughlin
SD	Miller
SD	Northern State University - Aberdeen
SD	Parker
SD	Pickstown
SD	Plankinton
SD	Rosebud Electric Coop
SD	SD Cement Plant
SD	SD School of Mines & Technology
SD	SD State Penitentiary
SD	SD State Training School
SD	SD State University - Brookings
SD	South Dakota Development Center
SD	University of South Dakota - Vermillion
SD	Vermillion
SD	Wassington Springs
SD	Winner
SD	SD Human Services Center - Yankton
SD	Springfield Correctional Facility

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Receives 40-70% of power from WAPA

Increase in Purchase Power
Cost up to ~12%

State	Municipality
IA	Alta
IA	Coon Rapids
IA	Denison
IA	Glidden
IA	Hinton
IA	Lenox
IA	Manning
IA	Milford
IA	Orange City
IA	Sanborn
IA	Sibley
IA	Sioux Center
IA	Spencer
IA	Stanton
IA	Wall Lake
IA	Woodbine

Receives 40-70% of power from WAPA

Increase in Purchase Power
Cost up to ~12%

State	Municipality
MN	Ada
MN	Alexandria
MN	Barnesville
MN	Detroit Lakes
MN	East Grand Forks
MN	Fairfax
MN	Fosston
MN	Halstad
MN	Hawley
MN	Henning
MN	Jackson
MN	Lake Park
MN	Litchfield
MN	Lower Sioux
MN	Madison
MN	Moorhead
MN	Newfolden
MN	Nobles
MN	Redwood Electric Coop
MN	Redwood Falls
MN	Sauk Center
MN	Sprinfield
MN	St. James
MN	Stephen
MN	Thief River Falls
MN	Upper Sioux
MN	White Earth Indian Reservation
MN	Windom
MN	Elbow Lake

Receives 40-70% of power from WAPA

Increase in Purchase Power
Cost up to ~12%

State	Municipality
MT	Blackfeet Nation
MT	Central Montana Electric Power Coop.
MT	Chippewa Cree-Rocky Boy
MT	Crow
MT	Fort Belknap Indian Tribes
MT	Fort Peck Indian Tribes
MT	Northern Cheyenne

Receives 40-70% of power from WAPA

Increase in Purchase Power
Cost up to ~12%

State	Municipality
ND	Devils Lake Sioux
ND	Grafton
ND	KEM Electric Coop
ND	Standing Rock Sioux
ND	Three Affiliated Tribes
ND	Turtle Mountain Chippewa

Receives 40-70% of power from WAPA

Increase in Purchase Power
Cost up to ~12%

State	Municipality
NE	Blue Hill
NE	Callaway
NE	Grand Island
NE	Omaha Tribe of Nebraska
NE	Ponca Tribe of Nebraska
NE	Sanlee Sioux Tribe of Nebraska
NE	Spalding
NE	Wilber
NE	Winnebago Tribe of Nebraska
NE	Wisner

Receives 40-70% of power from WAPA

Increase in Purchase Power
Cost up to ~12%

State	Municipality
SD	Arlington
SD	Aurora
SD	Beresford
SD	Brookings
SD	Cheyenne River Sioux
SD	Colman
SD	Crow Creek
SD	East River Power Coop.
SD	Flandreau
SD	Flandreau Santee Sioux
SD	Fort Pierre
SD	Howard
SD	Lower Brule Sioux
SD	Madison
SD	Oglals Sioux - Pine Ridge
SD	Pierre
SD	Rosebud Sioux
SD	Sioux Falls
SD	Sisseton-Whapeton Sioux
SD	Tyndell
SD	Watertown
SD	Yankton Sioux

PUBLIC COMMENT
U.S. ARMY CORPS OF ENGINEERS
MISSOURI RIVER MASTER MANUAL RDEIS HEARING
MICHAEL D. WELLS, CHIEF OF WATER RESOURCES
STATE OF MISSOURI
COUNCIL BLUFFS, IOWA – FEBRUARY 19, 2002

Good Evening. My name is Mike Wells. I serve as Chief of Water Resources for the State of Missouri. I thank the Corps of Engineers for this opportunity to comment.

Tonight I want to express a concern that the analysis of impacts to electricity production and pricing was not properly carried out and that the portrayal in the RDEIS is misleading to the public and their elected officials. Utilities in Missouri are concerned that several of the proposed alternatives would result in low summer flows which could cause NPDES violations of thermal standards and reduced power productions at the time when power is most needed and most valuable. We note that the Western Area Power Administration finds that these same alternatives, the so-called GP alternatives, do not take full advantage of the power production capacity of the Missouri River mainstem dams which then results in less power production and a decrease in WAPA revenues. * INSERT WAPA has informed us that the revenue shortfalls would be made up through rate increases to WAPA customers. I offer for the record information provided by WAPA that names the communities in Montana, North Dakota, South Dakota, Minnesota, Nebraska and Iowa that would have their rates increased.

The communities in Iowa are: Akron, Alta, Alton, Anita, Breda, Coon Rapids, Corning, Denison, Fontanelle, Glidden, Greetinger, Harlan, Hartley, Hawardan, Hinton, Kimbellton, Lake Park, Lake View, Laurens, Lenox, Manilla, Manning, Mapleton, Milford, Onawa, Orange City, Paullina, Primghar, Remsen, Rock Rapids, Sanborn, Shelby, Sibley, Sioux Center, Spencer, Stanton, Villsca, Wall Lake, Woodbine.

The communities in Nebraska are: Arnold, Beatrice State Development Center, Blue Hill, Callaway, Grand Island, Hastings, Hastings Regional Center, Nebraska State Penitentiary, Norfolk Regional Center, Omaha Tribe of Nebraska, Peru State College, Ponca Tribe of Nebraska, Sanlee Sioux Tribe of Nebraska, Spalding, University of Nebraska-Lincoln, University of Nebraska-Omaha, Wayne State College, Wilber, Winnebago Tribe of Nebraska, Winside, Wisner.

Receives 70-100% of power from WAPA

Increase in Purchase Power cost up to ~ 21%

State	Municipality
IA	Akron
IA	Alton
IA	Anita
IA	Breda
IA	Corning
IA	Fontanelle
IA	Greetinger
IA	Harlan
IA	Hartley
IA	Hawardan
IA	Kimbellton
IA	Lake Park
IA	Lake View
IA	Laurens
IA	Manilla
IA	Mapleton
IA	Onawa
IA	Paullina
IA	Primghar
IA	Remsen
IA	Rock Rapids
IA	Shelby
IA	Villsca

increase purchase power cost.xls11/1/2001

INSERT
* THE STATE OF MISSOURI BELIEVES THAT THE CORPS HAS MISLEAD THE PUBLIC BY SHOWING THAT THE G.P. ALTERNATIVES PROVIDE THE GREATEST LEVEL OF HYDROPOWER BENEFITS TO THE NATION WHEN THE LOSS OF $10 TO $30 MILLION ANNUALLY IN REVENUES TO THE WESTERN AREA POWER ADMINISTRATION WAS NOT INCLUDED IN THE ANALYSIS. TO NOT CONSIDER THESE LOSSES IN REVENUES TO WAPA IN THE NATIONAL ECONOMIC DEVELOPMENT ACCOUNT DOES NOT COMPLY WITH PRINCIPLES AND GUIDELINES FOR PLANNING WATER RESOURCE PROJECTS

I would also like to enter into the record the "Scientific Evaluation of Biological Opinions on Endangered and Threatened Fishes in the Klamath River Basins" that was recently completed by a committee of the National Academy of Sciences. This report specifically examined the details of the Biological Opinions on three fish species in that river and found that two proposed actions were unjustified scientifically. The committee noted a lack of correlation between the proposed actions and expected results.

The following quote from the committee's principal findings appears to apply to the Missouri River as wells. "The committee, however, did not find clear scientific or technical support for increased minimum flows in the Klamath River main stem. Although the proposed higher flows are intended to increase the amount of habitat in the main stem, the increase in habitat space that can occur through adjustments in water management in dry years is small (a few percent) and possibly insignificant."

On the Missouri River, the Corps has determined that the low summer flows recommended by the Service would create only about 100 acres of tern and plover habitat along the entire length of the river. The Corps did not analyze tern and plover habitat along the reservoirs; habitat there would be lost to inundation in plans that incorporate the Modified Conservation Plan.

Clearly, the Corps of Engineers must examine in detail the changes in river management under consideration and their actual benefits. In performing this important task, the Corps must adjust for the negative effects caused by the higher lake levels that occur with all alternatives including loss of miles of free flowing river habitat, loss of tern and plover habitat around the reservoirs and degradation of remaining tern and plover habitat around the reservoirs.

Thanks you again for the opportunity to comment.

nebraska farm bureau federation
5225 S. 16th St., P.O. Box 80299, Lincoln, NE 68501 Phone: (402) 421-4400, FAX# (402) 421-4432

Statement of Rob J. Robertson

Vice President/Governmental Relations, Nebraska Farm Bureau Federation

February 19, 2002

My name is Rob Robertson and I am the Vice President of Governmental Relations for the Nebraska Farm Bureau Federation, the state's largest general farm organization.

First, I would like to thank the Corps for agreeing to another hearing near Nebraska prior to the closing of the comment date. Nebraska Farm Bureau represents many farmers and landowners on the Nebraska side of the Missouri River and we do appreciate one more opportunity to comment on the Revised Draft Environmental Impact Statement suggesting various options to manage flows on the river.

It probably comes to no one's surprise that we are strongly opposed to the flow changes now being considered – particularly the proposals that contain a "spring rise" and the low summer time flows. . The impact these proposals would have on farmers along the river will be devastating due to additional flooding and inland drainage problems. In addition, the low summer flow will prevent season-long commercial navigation on the Missouri – which is important for movement of grain to export and for prices farmers receive at their local elevators.

To emphasize the impact proposals such as the "spring rise" may have on a farmer's livelihood, I would like to quote from an unsolicited email I just got this morning from a farmer near Rulo, Nebraska. He starts out by saying… *"We farm along the Missouri and Nemaha rivers in SE Nebr. High river levels make it impossible to sleep for days with the stress and worries of losing our crops and not being able to take care of our families financial needs. Mother Nature causes that often enough without someone from outside our farms and communities that have nothing to lose trying to change something they know nothing about. The dams and levees were put there for one purpose and that was Flood Protection!*

ANY person that thinks a "spring rise" on my farm is such a good idea should stop and think about me wanting a "spring rise" that would flood their house and flood their job, flood their work place, stop their income for one whole year and watch the tears of fear and sadness running down the faces of their sons and their daughters and their wives, as they are now running down my face, as I am writing this letter. There is no one, in their right mind, that would want to take a chance that they could cause people to suffer this kind of pain from a "spring rise" that might?, might?, might?, help increase the numbers of a bird or fish." (End of Quote)

Since 1960, the Army Corps of Engineers has managed the Missouri River and its six dams and reservoirs to meet goals outlined by Congress: flood control (the primary purpose of the system), navigation, irrigation, hydropower, water supply, water quality, recreation, and fish and wildlife. Balancing these interests is not an easy task, but we believe the current water control plan in operation now is the best alternative.

What is wrong with supporting the original congressional intent for the Missouri River, which is to balance the multiple and competing, interests along the river? Now, because of endangered species concerns, the U.S. Fish and Wildlife and others want to change the balance -- in effect, giving species needs greater priority than other interests. We believe such changes upset the balance the Corps is seeking to achieve, and very likely reduce the benefits of flood control, navigation and hydropower we have come to enjoy.

Recently, the Missouri River Basin Association has endorsed a 10-year demonstration plan that proposes a trial period of higher spring flows and lower summer time flows. While we realize the emphasis MRBA has put on flexibility, monitoring and evaluation procedures during the demonstration period, 10 years is a long time anyway you look at it. Without a fully-funded program in place to compensate hardships and losses to landowners or a fully-funded mitigation program in place to deal with decreased navigation services, we would be hard pressed to believe that this proposal is any major breakthrough in dealing with flow changes on the Missouri River.

Farmers tend to develop solutions in a plain and simple way and maybe we are making the management of the Missouri River too complicated. Congress has a law in place that states flood control and other purposes should be balanced in the management of the Missouri River system. Listings under the Endangered Species Act have placed more focus on one of the eight purposes of mainstream reservoir system.

It would seem logical to us that some effort should be made to establish a baseline to accurately assess where we are now in terms of the condition and situation of the protected species of concern. For example, the International Piping Plover Census found that plover numbers have increased 470 percent along the Missouri River in the past five years and now just over a thousand plovers are found there. Susan Haig, director of the census and a U.S. Geological Survey scientist, said recent favorable habitat conditions along the river may have spurred the increase. In other words, the birds found and used the riverine habitat.

If it is determined that more habitat is needed along the Missouri River for certain species, modifications should be taken first to improve existing habitat by pursuing more enhancements of oxbow lakes, wetlands and other natural habitats along the river and in the reservoirs. We strongly believe that there would be landowner support for fish and wildlife habitat enhancement along the river as long as those approaches are voluntary and incentive-based.

If it is determined that more needs to be done to improve the habitat by altering the river flows, gradual changes could be examined within the framework of the current water control plan. At the same time, social/economic analysis evaluations should be conducted to coincide with any flow changes made solely due to a species habitat issue.

Nevertheless, future management decisions for the river should not ignore the primary purpose of the mainstream dam system of flood control and other important benefits it provides such as hydropower, and navigation. Moreover, those decisions should not threaten the people and communities along the river and they should not forget and place undue harm on individual farmers along the river who are a part of the foundation of our nation's food and fiber system.

SIERRA CLUB
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Nebraska Chapter

P.O. Box 4664, Omaha, NE 68104

Comments on the Missouri River Master Water Control Manual Revised Draft Environmental Impact Statement

Public Hearing – Council Bluffs, IA – February 19, 2002

My name is Clyde Anderson of Omaha, Nebraska. I am Chair of the Nebraska Chapter - Sierra Club.

Sierra Club supports the GP 2021 Flexible Flow Alternative master plan because it is the closest to meeting our goals as defined in our Policy for Missouri River Management. A copy of this policy is attached and is available to the public on the Nebraska Sierra Club web site (http://nebraska.sierraclub.org/).

The Sierra Club sponsors outings on the Missouri River. I have been on many segments of the river including the entire 197-mile stretch from Booneville, Missouri to the confluence with the Mississippi River. Statements have been published that the Flexible Flow plan would harm recreational boating on the river. Perhaps this is true for a few big yachts, but low flows are not a problem for the majority of recreationists who use shallow-draft boats. Small boat users like us welcome the lower flows that would occur during part of the summer under the Flexible Flow Alternative. Lower flows not only make recreation safer but also expose sand and gravel bars, which are normally submerged during the navigation season, for picnicking, camping, or just observing wildlife. Most of us with shallow-draft boats use public boat ramps, and these ramps are generally useable at all river levels. This past Saturday (Feb. 16) I was at the twin ramps at N.P. Dodge Park, and based on the vehicles with trailers in the parking lot, at least eight boats had been launched. Many recreationists with small boats use the river all year when weather and ice conditions permit. Although most on the River this past weekend were probably fishermen, my wife and I were watching eagles.

Rec 27, 29

I worked for 35 years in transportation, 31 of those years for Missouri Pacific and Union Pacific railroads in engineering, operations, and transportation planning. River navigation is not always a competitor to the railroads, but is often a partner in providing freight transportation. However, commercial navigation on the Missouri River provides neither meaningful competition nor partnership because most barge operators avoid this waterway with its seasonal operation, narrow channel, and swift current. Commercial tonnage on the Missouri peaked in 1977 at 3.3 million tons. Since then the volume shipped has declined and averaged only 1.6 million tons per year during the past 10 years. (See Table 1 and Exhibit 1.)

Nav 34, 6, 8, 60

Lets compare these Missouri River tonnages with the volume of traffic moving on Union Pacific's route paralleling the Missouri River between Jefferson City and St. Louis. Traffic on that route segment grew from 11.5 million tons in 1977 to 43.0 million tons in 1999, nearly a four-fold increase. (See Exhibits 2 and 3.) Why didn't the Missouri River share in this traffic growth? The primary answer

is coal – most of the new tonnage moving on this rail line is coal originating in Wyoming and Colorado. About half that coal traffic is moving to rail-barge terminals on the Mississippi and Ohio rivers where the coal is transferred to barges for low-cost movement to final destination. This is an example of the railroad-navigation partnership I mentioned earlier. Why isn't the coal hauled to rail-barge terminals on the Missouri River? The biggest deterrent is that the Missouri River is shut down for at least four months a year. Huge storage facilities would have to be built to stockpile coal during the winter. Substantial investments in barges and tugboats would be idle during the winter unless they could be utilized elsewhere on the river system. Transferring coal and other commodities from rail to water at terminals on the Lower Mississippi and Ohio rivers is the low-cost option because these rivers are open all year.

Many farmers and agricultural associations object to the Flexible Flow Alternative because the ~~six~~ 8-week cessation of navigation during mid-summer would have an adverse impact on shipments of food and farm products. We believe the impact would be minimal. Only 730,000 tons of food and farm products moved on the Missouri River in 1999[1]. This amounts to less than one percent of the quantity of these products produced in Iowa, Nebraska, Kansas, and Missouri. According to a 1999 study by economists Michael Babcock at Kansas State University and Dale Anderson at the University of Nebraska Lincoln[2], commercial navigation on the Missouri River provides minimal, if any, benefits to shippers of farm products. They forecast no growth in this traffic on the river for several reasons:

Nav 7, 12, 31

1. The depressed volume of U.S. grain exports except to Mexico, and most grain exported to Mexico moves via rail or truck.
2. The increasing use of farm products locally for making ethanol, sweeteners, oils, etc. The Cargill-Dow plant at Blair, NE is even making plastic out of corn!
3. The huge growth in factory farming means much more grain is consumed locally to feed livestock, hogs, and poultry. These short-haul grain hauls move mostly by truck. The meat being produced is shipped nationally and internationally, again, mostly by truck.

Barges aren't the only ones hurt by these market changes. Railroads are hauling less grain, too.

For the past 70 years the Missouri River has been managed in a manner to promote commercial navigation at the expense of many other users, especially wildlife and recreation. The Sierra Club believes the Variable Flow Alternative is an excellent compromise management plan.

Clyde L. Anderson

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1 Waterborne Commerce of the United States, U.S. Army Corps of Engineers
2 "Does Barging on the Missouri River Provide Significant Benefits?" by Michael W. Babcock and Dale G. Anderson. Environmental Defense Fund, 1999.

Table 1
MISSOURI RIVER TONNAGE HISTORY
1973 - 1999

	Missouri River		Union Pacific Railroad Jeff City-St. Louis Route	
Year	Commercial Tons*	Total Tons	Gross Tons	Net Tons#
1973	1.8	6.4	19.6	9.4
1974	2.6	7.7	20.1	9.6
1975	2.3	6.2	19.1	9.2
1976	3.1	6.6	23.4	11.2
1977	3.3	6.7	23.9	11.5
1978	3.2	7.9	24.9	12.0
1979	3.1	7.7	25.1	12.0
1980	2.9	5.9	24.2	11.6
1981	2.5	5.3	23.2	11.2
1982	2.5	4.9	18.3	8.8
1983	2.9	6.3	21.9	10.5
1984	2.9	6.4	22.3	10.7
1985	2.6	6.5	24.1	11.6
1986	2.3	7.0	24.7	11.9
1987	2.4	6.7	19.6	9.4
1988	2.2	6.7	28.7	13.8
1989	1.9	5.4	27.1	13.0
1990	1.3	5.8	33.1	15.9
1991	1.6	5.7	35.2	16.9
1992	1.4	5.8	35.3	16.9
1993	1.6	5.6	37.5	18.0
1994	1.8	8.5	44.5	21.4
1995	1.4	6.9	46.0	22.1
1996	1.6	8.2	53.4	25.7
1997	1.7	8.2	63.7	30.6
1998	1.8	8.4	82.9	39.8
1999	1.7	9.3	89.7	43.0

Notes: * - Commercial tons excludes short-haul movements of sand, gravel, and waterway materials.
- Net tons (lading weight) is estimated by multiplying gross-tons by 0.48, UP's system avg. net-ton/gross-ton ratio.

Data Sources: Waterborne Commerce of the United States
Union Pacific Gross Ton-Mile Maps

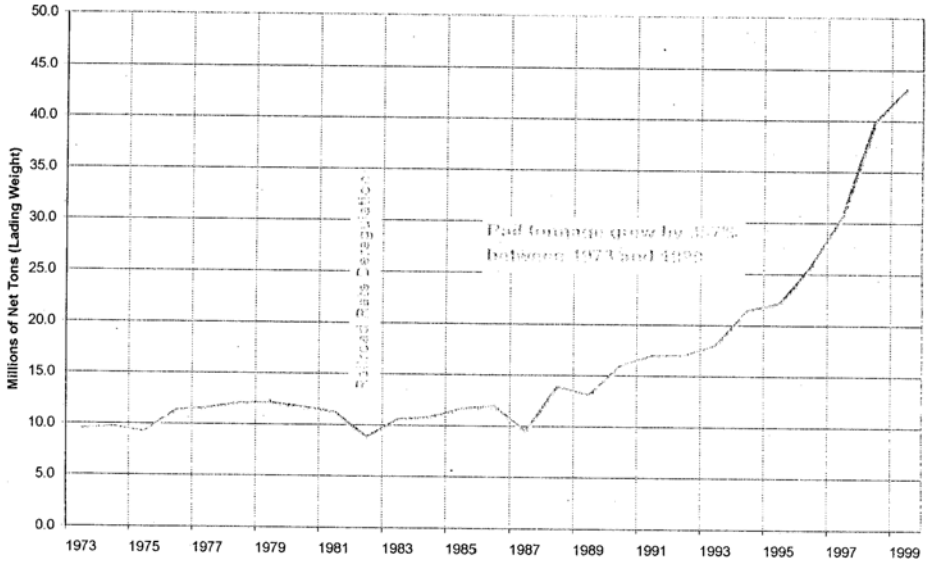
File: Barge-Rail Tonnage History **Nebraska Chapter - Sierra Club** Date Printed: 2/19/2002 12:11 PM

Exhibit 2

Railroad Net Tonnage

Union Pacific's Jefferson City - St. Louis Route Segment

Parallels the Missouri River



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Nebraska Chapter - Sierra Club

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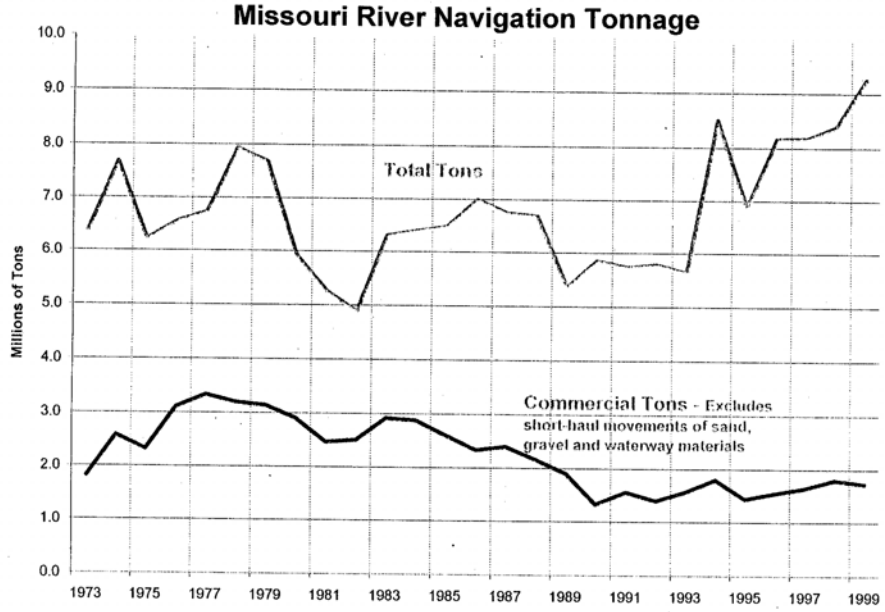
Exhibit 1

Missouri River Navigation Tonnage



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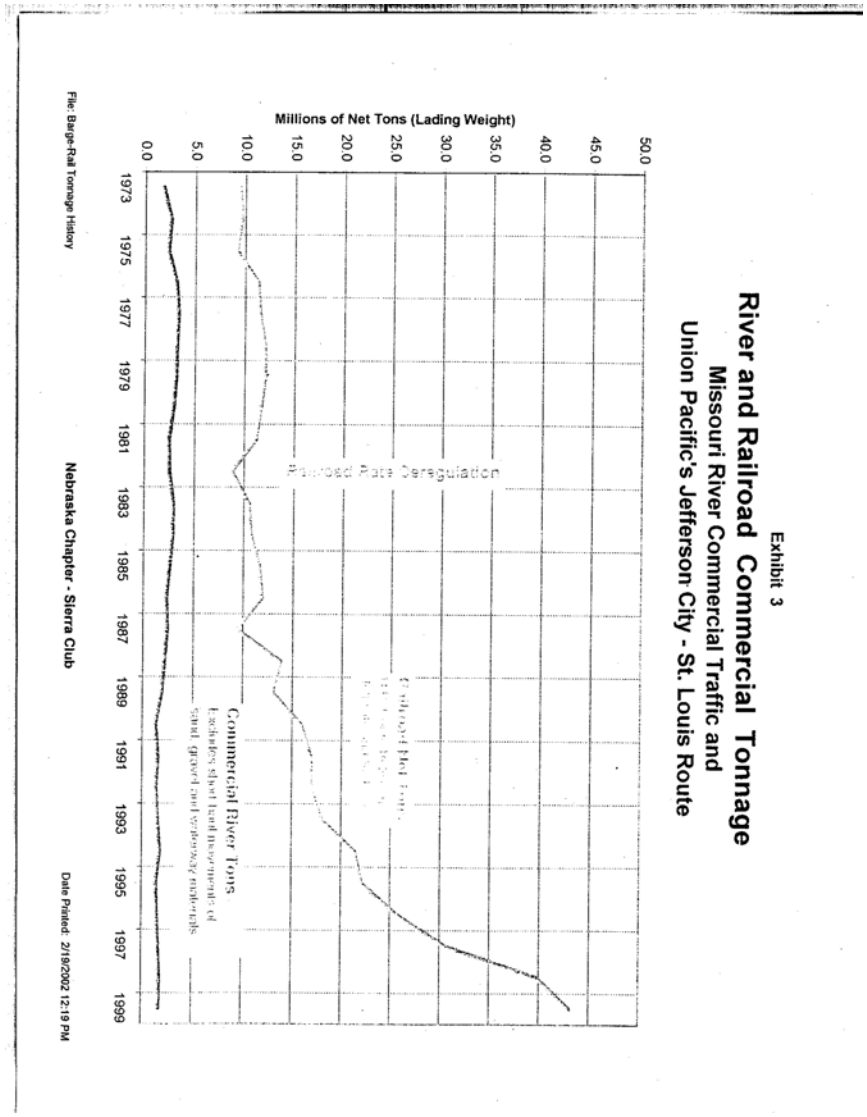

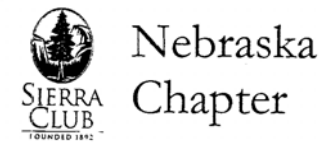

Nebraska Chapter

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SIERRA CLUB POLICY FOR MISSOURI RIVER MANAGEMENT

Adopted by the Nebraska Chapter on September 15, 2001
Adopted by the Northern Plaines Region Conservation Committee on October 14, 2001

1. Support native habitat restoration
   - Discussion: This should be an over-riding goal of Missouri River Management, and all other management goals and recommendations should be subservient to this main management goal.

   WRH 6

2. No new dams in the Missouri River basin.
   - Discussion: Current dams have caused major disruptions in the ecology of the basin. No new dams should be considered in any of the major or minor tributaries of the River.

   Other 276

3. No new levees that protect beyond "agricultural" level (5 year flood)
   - Discussion: "Industrial" (100+ year protection) levees have separated the river from its floodplains - see #8 below.

4. Support basin-wide mitigation funding
   - Discussion: The US ACOE has been authorized large amounts of funds to conduct mitigation efforts that will counter the negative impacts of the past decades of river management. The Sierra Club should support appropriations to the Corps targeted for such mitigation.

   Other 70

5. Support Conservation Easement funding
   - Discussion: Short of outright purchases of floodplains and riverine wetlands (through such efforts as the USFWS' Big Muddy Wildlife Refuge), easements could be purchased through WRP, EWRP, and other long-term or permanent set-aside programs.

   Other 218

6. Support monitoring for water quality, habitat quality, species decline, species recovery
   - Discussion: A component of any Missouri River management plan should be monitoring to ensure that the plan is contributing to habitat restoration, water quality improvement, and recovery of indigenous species - particularly those that are listed as "endangered", but also to prevent habitat loss and consequent indigenous species decline. It is much easier to prevent species from becoming threatened or endangered than it is to recover species on the brink of extinction. This monitoring should be conducted by the USGS, USFWS, and states' fish and game management agencies.

   Other 119

Sierra Club Policy for the Missouri River – Approved by Chapters in MO River Basin 10/14/2001

1

7. Support Adaptive Management
   - Discussion: This goes hand-in-hand with monitoring. If it is determined that some aspect of the management plan is not having the expected results, the Corps and other state and federal agencies should make adaptive changes to the management plan to address the problems. The adaptive management monitoring and subsequent recommendations for changes should be conducted by the US Geological Survey.

Other 10

8. Reconnect floodplains and river - levee setbacks (one example)
   - Discussion: The Missouri River should not be limited to a channel designated by the US ACOE, but rather should be allowed to expand into its floodplain during high-water events. "Industrial" levees should be set back sufficient distances (1500' has been proposed) from the Ordinary High Water Mark to allow an escape valve for flood water, to replenish the floodplain and to allow restoration of the riparian corridor.

FC 10

9. Support managing the Missouri River for other than navigational purposes. (See #1 above)
   - Discussion 1: Cost-benefit analysis does not warrant management of river for navigation; barge traffic peaked in the '70s and has been in decline ever since, yet the Corps continues to manage the lower basin (below Gavins) for a non-existent barge industry (12% to 20% of original expectations). The results have been ecological destruction and loss of species throughout the basin and negative impacts upon upper-basin resources. Elimination of management for navigation would allow 1) restoration of a more natural lower river channel below Sioux City, 2) partial restoration of seasonal in-stream flows, and 3) elimination of a heavily subsidized and uneconomic system.
   - Discussion 2: We can find no evidence that navigational flows on the Mississippi River are in any way dependent upon Missouri River flows. Questions were directed to all state and federal agencies and none asserted that navigation on the Mississippi was related to the Missouri.

Nav 18, 35

10. Support "unbalancing" the reservoirs
    - Discussion: If the "split-season" flow regime is utilized, the flows from the upper basin reservoirs should be cycled, rather than drawing down one reservoir year after year. This will allow exposure of the sandbars and mudflats in the upper basin reservoirs on a cyclical basis, and should enhance nesting success for the endangered bird species. However, careful monitoring and adaptive management (see #7 above) should be utilized to ensure that the results are positive.

EnSp 62

11. Oppose bank stabilization and destruction of riparian zone - basin-wide
    - Discussion: See #s 2, 4, and 8 above.

Other 303

12. Support setbacks for housing/residential developments - see statement on P&Z county protection, floodplain preservation, riparian zone protection, and setbacks for aesthetics. Minimum protection for 100-year flood level.
    - Discussion: Riverfront development is destroying the public ownership values of the Missouri River at an alarming rate; trophy homes built close to the river command a premium price but destroy riparian habitat and diminish the aesthetic quality of the river. Carefully planned zoning ordinances, when combined with federal incentive programs, can minimize many of the negative impacts of riverfront housing developments. These

include setbacks for houses, screening of buildings using natural vegetation, and blending homes with natural topography. The Sierra Club supports and will work with local zoning boards and county commissions, as well as citizens groups, to secure and implement proper ordinances that focus on the public ownership values of the river.

Other 218

13. Support more dependence on natural systems - less on engineering
    - Discussion: We prefer natural rivers and natural systems over manipulated ones. Unintended consequences of engineering "solutions" often create more problems than are solved.

14. Need a Sierra Club entity to focus on Missouri River Basin (using Lewis and Clark Bicentennial funding, for example)

15. We support the "Split-Season" flow regime for spring high flows 1 of every 3 years, low summer flows each year. However, the "fall rise" is not historically nor ecologically justified.
    - Discussion 1: We support flow modification to manage MO River for wetland communities, populations of all indigenous wildlife species, endangered species recovery, habitat restoration and recreation by higher spring rise, low summer flows. Fall flows should be determined by adaptive management reviews by the USGS with integral independent review and analysis.
    - Discussion 2:Fall rise is not justified by the historic hydrographic records and we consider it to be artificial and unnecessary; apparently it is advocated by the state and federal agencies to ensure sufficient flow for navigational interest. It is our position (see #9 above) that the River should not be managed for navigation.
    - Discussion 3:Low flow in summer should be sufficient to protect other interests (recreation, species, habitat restoration)
    - Discussion 4: Caveat: Flow modification should have little impact beyond 60 miles below Gavins - at least not from Sioux City on down. Natural flows from the rivers below Gavins Point provide attenuation of the impacts of flow releases from upstream.
    - Discussion 5: We view the "split season" flow regime as one quite small component of a return to a more natural river hydrograph. Too much emphasis has been placed on this component by upstream and downstream political interests.

Other A

16. Retirement of Gavins Point dam as a flood control or water retention structure.
    - Discussion 1: As Gavins Point Dam approaches the end of its useful life due to the sediment buildup behind the dam, consideration should be given to the possibility of removal and restoring the sediment flows to the river.
    - Discussion 2: We support finding ways to redistribute the sediments and water-flows necessary to rebuild the natural communities of the entire lower Missouri River to the Gulf of Mexico.
    - Discussion 3: Short of physical removal of Gavins Point, it should become a "run of the river" structure (water in, water out).

Other 187

17. Opposition to out-of-basin diversions
    - Discussion: We oppose out-of-basins diversions that would potentially impact the historic natural fish and wildlife communities within the basin, or potentially introduce Missouri River basins species into other watersheds/basins.

Other 172

18. Opposition to basin depletions
    - Discussion: We oppose in-basin diversions where water does not return to river. Example: irrigation where large quantities are lost through absorption or evaporation.

Other 172

19. Concerns about hydroelectric generation.
    - Discussion: We took no position on this issue pending the acquisition of additional information.

Rec 40

20. Impacts of managing for recreation.
    - Discussion: While supporting ecologically-sustainable recreation in the Mo R basin, we recognize the need to regulate recreational activities that negatively impact other values of the river. Jet skis ("ski-doos"), large high-powered personal watercraft, and other high-impact uses should be restricted to times or places where least harm is caused.

21. Concerns about Sturgeon fishing/harvest (inability of anglers to identify Pallid from Shovelnose).
    - Discussion: No position taken. Awaiting further information - position to be established later

WQ 33

22. Dredging - disruption of deposited sediment
    - Discussion: While there exists dire need for redistribution of sediments (see #16 above), disruptions of sediments by dredging presents potentially serious water quality concerns. As such, dredging should only be undertaken ONLY when there will be NO negative impact on water quality.

Fish 13

23. We oppose the introduction of non-native species and support efforts to reduce current populations that have been previously introduced.
    - Discussion: Wildlife and plants should not be introduced into habitats where they are not native when introduction may have adverse effects. Proposed wildlife and plant introduction and removals should be prohibited until an adequate research study is completed that indicates whether or not such action will have an adverse effect on the natural ecosystem involved. The Sierra Club supports the removal or control of non-native species and rehabilitation and restoration of native ecosystems, unless it is no longer feasible to do so or there is not a documented conflict with the native ecosystem. (National Sierra Club policy adopted 12-10-94).

February 19, 2002

Oral Testimony:
Council Bluffs, Iowa Public Hearing
Revised Draft Environmental Impact Statement
Missouri River Master Water Control Manual
United States Army Corps of Engineers
Northwest Division

Hydropower Cost Impacts

Good evening. My name is Randy Asbury and I'm Executive Director of the Coalition to Protect the Missouri River. The remarks I will be providing tonight in regard to hydropower energy impacts have been provided by John Pozzo of Ameren.

In the Revised Drat Environmental Impact Statement the Corp evaluated the impact of the various flow alternatives on hydropower energy production. Tonight I would like to call to the attention of the good citizens of Iowa and Nebraska the potential impacts of reduced summer flows on their cost of electric service if certain flow alternatives are selected by the Corps.

The Western Area Power Administration (WAPA) markets and delivers reliable, low cost hydroelectric power within a 15 state region of the central and western U. S. The Power Administration derives a portion of its energy production from the six dams and hydropower facilities located on the upper Missouri River. Electricity generated by these facilities is marketed to rural cooperatives, municipalities, public utility districts, irrigation districts, Native American Tribes, and Federal and State agencies. If insufficient amounts of electricity are generated within the Power Administration, energy would be purchased from other sources to meet customer demand.

The amount of electricity generated by any hydropower facility is dependent upon the amount of water passing through the turbine-generators at the dam. Less water flowing through a dam creates less electricity production. Less electricity production creates the

need to secure power from other sources. Since hydroelectric plants are the most economical means of producing electricity, the acquisition of power from other sources such as coal, oil, gas, or nuclear power plants will come at a cost premium.

The four GP plans proposed by the Corps all have significantly lower summer flows than the CWCP. This low summer river flow comes at a time when demand for electricity is typically at its highest. Because of the high demand for energy during the summer, and the limited availability of excess power, the price of purchased power is also at its highest.

The upper Great Plains Region of the Power Administration calculated revenue impacts of the CWCP and the GP options to assess the potential impact to their customers. The analysis revealed that electric rates would increase on any proposed GP plan due to reduced generation from lower summer flows and the need to purchase more expensive power from outside sources.

For the GP1521 plan, the Power Administration estimates a 21% increase in purchase power cost for customers that receive 70% to 100% of their power from the Administration, and a 12% increase in purchase power cost for customers that receive 40% to 70% of their power from the Administration.

Although I will not take the time to identify the customers in Iowa and Nebraska that will be affected by these rate increases during my verbal comments, I have provided a complete customer list as part of my written comments.

Most everyone acknowledges that the Missouri River needs change. The contentiousness of the issue, however, revolves around whether the FWS recommendations will actually benefit anything or if it's even needed for certain species. FWS demands a more "natural" hydrograph (i.e. spring rise) for the piping plover and least tern. Research completed by the Missouri River Technical Committee term this assumption "unfounded." They report, "…the timing of the spring rise and the brooding and mating season very nearly coincide…The proposed USFWS spring rise once every three years during June, like the natural spring rise, will flood the sand bar habitat of the least tern and piping plover at the time they are mating and nesting…Accordingly, the natural hydrograph is not the best hydrograph for the least tern and piping plover. This contradicts the USFWS' basic assumption on which they have devised the flow modification scheme."

The Environmental News Service on January 25 stated that USGS estimates in their 2001 International Piping Plover Census show the plover population has increased "470 percent in five years and 140 percent in the decade" along the Missouri River. This increase has occurred under the current water control plan. The December 2000 Biological Opinion states it plover recommendations were based on "a substantial decline in population numbers." The current water control plan has benefited the plover; therefore, we request that formal consultation be reinitiated on the Biological Opinion as it relates to this new information about plover populations.

My last comment regards the role of, or lack thereof, of MRBA in representing the states' interests. We contend that MRBA doesn't represent or characterize state positions in an appropriate manner and uses their voice and position to skew recommendations. Therefore, we question the need for Missouri or Iowa to participate in this biased organization.

NOTE: Electric rates would increase on any proposed GP Plan (formerly referred to as MR plans). The information below represents those municipalities that would be affected by the increase in purchase power costs resulting from reducing the low summer flow to 21 feet outlined in GP1521 & GP2021.

Receives 70-100% of power from Western Area Power Administration (WAPA)

Increase in Purchase Power
cost up to ~ 21%

State	Municipality
IA	Akron
IA	Alton
IA	Anita
IA	Breda
IA	Corning
IA	Fontanelle
IA	Greetinger
IA	Harlan
IA	Hartley
IA	Hawardan
IA	Kimbellton
IA	Lake Park
IA	Lake View
IA	Laurens
IA	Manilla
IA	Mapleton
IA	Onawa
IA	Paullina
IA	Primghar
IA	Remsen
IA	Rock Rapids
IA	Shelby
IA	Villsca

Receives 40-70% of power from WAPA

Increase in Purchase Power
Cost up to ~12%

State	Municipality
IA	Alta
IA	Coon Rapids
IA	Denison
IA	Glidden
IA	Hinton
IA	Lenox
IA	Manning
IA	Milford
IA	Orange City
IA	Sanborn
IA	Sibley
IA	Sioux Center
IA	Spencer
IA	Stanton
IA	Wall Lake
IA	Woodbine

NOTE: Electric rates would increase on any proposed GP Plan (formerly referred to as MR plans). The information below represents those municipalities that would be affected by the increase in purchase power costs resulting from reducing the low summer flow to 21 feet outlined in GP1521 & GP2021.

Receives 70-100% of power from Western Area Power Administration (WAPA)

Increase in Purchase Power
cost up to ~ 21%

State	Municipality
NE	Arnold
NE	Beatrice State Development Ctr.
NE	Hastings
NE	Hastings Regional Center
NE	Nebraska State Penitentiary
NE	Norfolk Regional Center
NE	Peru State College
NE	University of Nebraska - Lincoln
NE	University of Nebraska - Omaha
NE	Wayne State College
NE	Winside

Receives 40-70% of power from WAPA

Increase in Purchase Power
Cost up to ~12%

State	Municipality
NE	Blue Hill
NE	Callaway
NE	Grand Island
NE	Omaha Tribe of Nebraska
NE	Ponca Tribe of Nebraska
NE	Sanlee Sioux Tribe of Nebraska
NE	Spalding
NE	Wilber
NE	Winnebago Tribe of Nebraska
NE	Wisner

BRINGING RIVERS TO LIFE

American Rivers

Comments of Chad Smith of Lincoln, Nebraska
On the Missouri River Master Manual Revised Draft Environmental Impact Statement
Council Bluffs, Iowa
February 19, 2002

My name is Chad Smith. I live in Lincoln, Nebraska. I am Director of the Nebraska Field Office for the national river conservation organization American Rivers.

On January 9th, the National Academy of Sciences released its report on the Missouri River, *The Missouri River Ecosystem: Exploring the Prospects for Recovery*. The conclusions of the report were definitive: that the Missouri River ecosystem is degrading, that enough data exists to take action, and that we should get busy.

That report puts to rest the claim that "science" does not support restoring more natural flows to the river. To be clear, here is a telling quote from the Academy report:

"Degradation of the Missouri River ecosystem will continue unless some portion of the hydrologic and geomorphic processes that sustained the pre-regulation Missouri River and floodplain ecosystem are restored – including flow pulses that emulate the natural hydrograph."

So, the science can no longer be ignored. The proper discussion is no longer "if" flow changes should be made, but instead "how" we go about it.

The U.S. Fish and Wildlife Service provided recommendations for a starting point in its Final Biological Opinion. You, the Corps, used those recommendations to develop several dam operation alternatives that would restore, in a modest way, some portion of the Missouri's natural flow. None of them are the "silver bullet" solution. But, they point us in the right direction.

The conservation community continues to support what we call the "Flexible Flow" alternative, which you identify as GP2021. It is the only alternative now on the table that fully captures the science-based recommendations of the Fish and Wildlife Service. It would give you the flexibility to restore more natural flows on the Missouri, an action that scientists with the Fish and Wildlife Service, the Missouri River Natural Resources Committee, and the National Academy of Sciences, just to name a few, all recognize as the priority action that must be taken to help the Missouri River stop its slide toward collapse.

Last week, six states that are part of the Missouri River Basin Association weighed in on this issue. Reflecting on both the Biological Opinion and the National Academy of Sciences report, the basin states of Kansas, Nebraska, Wyoming, South Dakota, North Dakota, and Montana all

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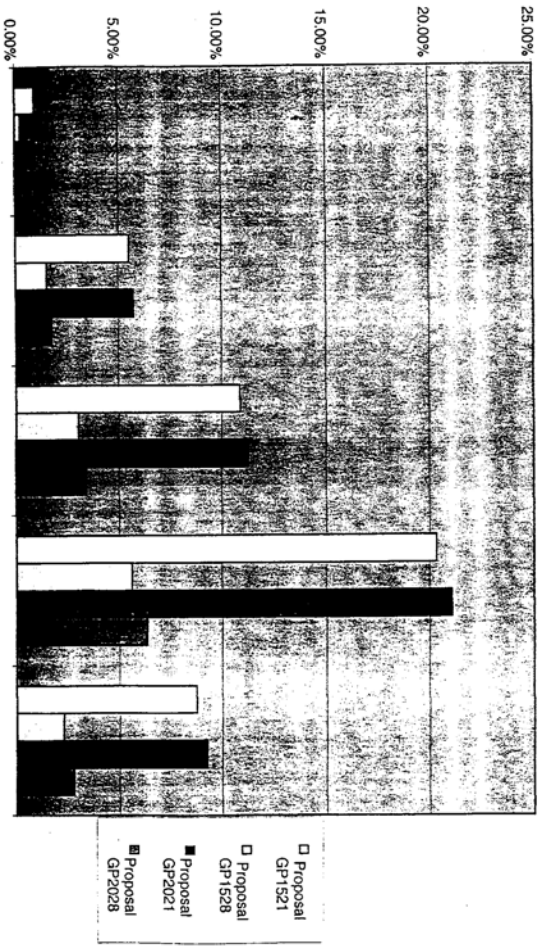

formally recommended that the Corps begin implementing a plan of experimental test flows out of Gavins Point Dam. That is a major breakthrough, and hopefully it signals to decision-makers outside the basin that the status quo will no longer suffice.

These six states provide you with a possible starting point, from which you could work your way toward the "Flexible Flow" alternative and begin the process of restoring the health of this most historic river system. Modest flow changes alone will not restore the Missouri River, but flow changes must be a part of any restoration plan for the river. Ignoring this fact, and delaying action, is simply not an option.

You have spent millions of taxpayers dollars over the past 12 years to analyze how these potential flow changes would benefit fish and wildlife, but also how they would impact people living along the river. The concerns of farmers, power consumers, city dwellers, and others are just as important as those of native fish and wildlife species, and all of those concerns must be addressed.

Flow changes on the Missouri will not be without impact. Instead, we need to focus on how extensive will these impacts be, how we best monitor and account for these impacts, and how we minimize or eliminate the cost various river users bear as we make changes on the river.

There is a long list of numbers from the Corps that shows how modest flow changes can be implemented without causing undue impact on current uses of the river – we'll get 99% of the current flood control benefits, 2% greater annual hydropower benefits, no major flooding of farmland, navigation on the Missouri in the spring and fall, improved navigation on the Mississippi River, and the list goes on.

But, we cannot ignore the fact that there will be impacts, though we cannot let such impacts stop us from moving forward. All river interests have to work together to come up with a plan to deal with those impacts utilizing the tools of mitigation and compensation. It won't be easy, and in some ways it might be unprecedented, but it can be done, and it must be done. Nobody should have to bear the burden alone of bringing this great river system back to health.

However, we should also not fail to recognize the benefits of a restored Missouri River. Healthy populations of native fish and wildlife are important, but consider the tremendous benefits of increased opportunities for recreation and tourism. A healthy Missouri River will be a much better attraction for those that want to fish from its banks, picnic on its sandbars, hike along its course, and boat on its water.

There is no question that there is recreation on the Missouri River on the Nebraska/Iowa border. But it is nowhere near what it could be, and many are prevented from using and enjoying the river at all. We are all missing out on tremendous economic benefits that a healthy Missouri River could bring.

For example, the Missouri River also runs through the city of Bismarck, North Dakota. There, the river is wide, there is shallow water, there are sandbars and islands, and river levels move up and down. I urge everyone here to visit Bismarck on any summer day, and you will find

probably 10 times as many people on the river as there are at the same time in Council Bluffs and Omaha – big power boats, jet skis, canoeists, anglers, kids swimming on sandbars, and dozens of other river activities. Several marinas operate continually throughout the summer and are adapted to fluctuating river levels. There is even a large excursion paddle-wheeler that operates on the river in Bismarck, taking large groups of people for slow cruises on the river.

So, it is obvious that a restored and healthy Missouri River holds enormous economic potential. We just need leaders and agencies like the Corps to let us tap into that potential, and to let us make a broader vision for the Missouri a reality. With a little elbow grease, we can make the Missouri River truly a better asset for Council Bluffs, Omaha, and every community along its length.

This approach makes good environmental sense, but also good economic sense. Here's another quote from the National Academy of Sciences report that stands out:

"On the Missouri River, there is a distinct prospect that…ecosystem restoration may be justifiable solely on the grounds that it represents an economic improvement on current mainstem dam operations."

We do enjoy many benefits of the Missouri River system as it is now managed, like flood control and hydropower. But, we also bear the burden of a river system that is in a sad state of decline. The Missouri is everyone's river. Those that farm the floodplain and operate barges on the river own it equally with those that fish its shallows and hunt its backwaters. It is time that due consideration is given to everyone.

We can have our flood control, our hydropower, and our floodplain farming. But, at the same time, we can also have better fishing, better hunting, and a healthy river.

As you finalize your plans for reforming how you manage the Missouri, we urge you to consider the leadership role you have before you. You have the opportunity to help us come together to restore and revitalize a river system that cuts through the heart of this basin and this nation. Please seize that role.

Thank you.

Audubon NEBRASKA

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To: Army Corps of Engineers
From: Dave Sands, Executive Director, Audubon Nebraska
RE: Testimony in favor of a new Missouri River management plan
Date: February 19, 2002

A few days ago, I testified at a hearing on efforts to comply with the Endangered Species Act (ESA) on the central Platte River. While it is a much different river with different issues, there are some striking similarities.
Both rivers are extremely important for wildlife

~~There is a need for higher spring flows to establish sandbars for piping plovers~~. There is resistance to change, as both rivers ~~have been primarily managed for a single use over most of their post-settlement history~~. Making a first step toward a more balanced approach has also been a long and expensive process. On the Platte, it took 13 years to relicense Kingsley Dam, and efforts on the Missouri have broken this dubious distinction by taking nearly 15 years, and we are still counting. Now with the recent position taken by the Missouri River Basin Association (MRBA), there can be one more very important similarity: A goal to create a management plan that begins to restore the ecosystem for wildlife while minimizing any adverse consequences for people.

With the latest report from the National Academy of Sciences, there should be little question about the need for a change. It is perhaps the strongest indication to date that the Corps must change management to comply with the ESA. The release of this report offers the Corps a perfect opportunity to ~~finally admit~~ agree that the best science available indicates that a change is needed.

In doing so, the Corps would be in good company, as the MRBA has essentially stated the same position, breaking with its past history of supporting the status quo. The significance of this change should not be minimized, as it opens the door to a measure of consensus that would start the river down the road to recovery. At the same time, it would do so in careful, measured steps to ensure that we are benefiting wildlife ~~without harming~~ while also considering the needs of people.

In some ways, the proposal from the MRBA represents the future of ESA compliance. It is built upon adaptive management, which recognizes that current science is only a snapshot in time, and as our knowledge of the river improves, so can our management. The proposal also calls for stakeholder involvement, which should be at the top of any conservation agenda. Finally, it offers realistic goals that are to be achieved during a prescribed period of time.

While the MRBA proposal does not offer everything everybody wanted on either side, it does offer a historic opportunity for everybody to start working together. Please seize this opportunity so that the Missouri and Platte rivers can have one more thing in common: A stakeholder-driven recovery program focused on good science and crafted to reduce economic conflicts.

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TESTIMONY FOR MISSOURI RIVER MASTER MANUAL
U.S. ARMY CORPS OF ENGINEERS

FEBRUARY 19, 2002

Thanks for the opportunity to say a few words for the record. I am M.J. (Jim) Whiting, 80-year resident of the Missouri River Valley, who remembers the flood of 1952 very well.

Also the designated representative of the Monona County, Iowa, Board of Supervisors. Monona County's western border is the Missouri River. The Board of Supervisors is trustees for 54 legally constituted drainage districts. Also in our county there are 30 districts that have their own elected governance boards in addition to the other 54 districts. Of the 446,000 acres in Monona County 278,000 are in drainage districts. Increased spring releases from Gavins Point would further compound their problems by backing up drainage.

Isn't the prime purpose of the Pick-Sloane Plan flood control, which has certainly enhanced development?

One fact overlooked is the U.S. population; 5 million in the time of Lewis & Clark versus 280 million presently. 560 people today for each one person in 1800. Do we want to upset the infrastructure that makes this possible? Seems a lot of outsiders like Ms. Ragsdale, Des Moines Register Editorial writer, think they are experts because they have driven through the valley!

Considering the mission of Pick-Sloane and Lewis & Clark (development of the Louisiana Purchase) a spring rise and a low summer flow are a scenario for disaster for a presently highly workable system. By putting water in basements, adding to construction costs and reducing electric power production in peak demand periods, possible increase in shipping costs if we lose water compelled rates, putting out of business a highly developed recreation industry (boats and marinas) and further degradation of the channel by increased spring flows.

Iowa has had a problem when only our DNR with their tunnel vision was dictating this scenario. The people directly involved have changed that by getting a broader input. I sense the same is going on in other areas when I read the submission of the Papio/Missouri River Natural Resource District.

All of these things plus the report of the National Academy of Science lead me to be very skeptical of what I see in the summary of Missouri River Revised Draft Environmental Impact Statement…Master Water Control Manual. Also have heard nothing about the effect of changing things to MAYBE save three species when in a normal year about 100 species disappear.

Do we really want the dinosaur and the three-toed horse, mountain lions and bears back? Saving the three listed species could cause more problems than one could imagine. In my lifetime have seen deer increase from near extinction to becoming a problem. Same with Canadian geese. And we now have wild turkeys that cause havoc in some areas. Nature adapts.

As I said, I am speaking for Monona County Board of Supervisors, and they want in the record that saving the listed species could well extinct one of much greater importance…..the local property tax payer.

Thanks. Unless there are some questions I can answer, I yield the balance of my time.

THE SPRING RISE

The USFWS claims to have enough scientific data to not only justify, but make necessary a change in the Missouri river hydrograph. This change is supposed to aid the recovery effort of the Pallid Sturgeon, Least Tern, and Piping Plover. Common sense should tell anyone with a basic knowledge of the situation, this is not true.

The Pallid Sturgeon: USFWS says the spring rise "may" cue the spawning of the pallid, but there is convincing evidence available that shows the Pallid is already being cued, and that cue is a water temperature of 65 degrees. There is also evidence that the Pallid does not spawn in the mainstem of the Missouri, but goes up into the tributaries. This takes place in the month of May. Tarleton H. Bean, author of Fishes of Iowa, Report of the State Fish Commission, 1892-93 states: "Nothing is recorded of it's habits, except it runs up into the small streams in May for the purpose of spawning". Any attempt at changing the hydrograph in May will affect water temperature, and defeat the natural reproduction cycle.

The Piping Plover& Least Tern: Although Piping Plover never successfully used the Missouri River for nesting prior to the building of the dams because of the day to day fluctuations of the river, they have readily adapted to the consistant flows afforded by the current operation of Gavins Point. The spring rise will be a disaster for them, because of their need to nest just inches above the waterline, coupled with their arrival in late April and early May, which means they will have laid their eggs just before the Spring rise. The Least Tern will face the same plight.

Let's return to the Pallid Sturgeon. Presume for a moment that in spite of the spring rise, they were successful in getting their eggs laid and hatched. These larvae will eventually move into the shallow waters of the Mainstem. It is common knowledge that very little shallow water exists between Gavins Point and the Mouth of the Platte due to degradation. Lets assume Sturgeon do manage to find some shallow water. Just about the time they adjust to their new environment, the summer drawdown occurs and in many cases either leaves them high and dry or unable to find any more shallow water. Either situation will lead to their demise.

This overview should convince any reasonable person that the Spring

rise and Summer draw down has problems, but there is more. The USFWS says it is necessary to recreate the natural hydrograph, but is it "natural"? Let me present an analogy to show the answer to that question is a resounding "NO". We all know what Mom's Beef Stew is and what constitutes the ingredients. We need beef, vegetables, seasoning, and water. Does anybody really believe a bowl of cold water could be placed in front of "MOM" and she would agree it is beef stew? This is exactly what USFWS is asking. They have a Spring Rise with, no CARBON, no SEDIMENT, and no HUMUS, and they are trying to say it is a "natural hydrograph". MOM wasn't fooled on plain cold water being beef stew, and that other "MOM", Mother Nature won't be fooled with a hydrograph of sterile cold water. Does it take a degree in aquarian Biology, or a PHD in Ichthyology to reach this conclusion? You know the answer is no. It only takes "Common Sense".

There is more, 1700 miles more, above Sioux City. The introduction of non-native gamefish above Gavins Point has wreaked havoc with the vast majority of native species. According to the NAS Report 51 native species on the Missouri River are losing numbers, the majority above Gavins. There is convincing evidence, that non-native Game Fish are eating them. The USFWS in answer to a petition to list Sicklefin and Sturgeon Chub on the Missouri River as endangered replied: " predation has likely increased over historic levels due to the stockings of piscivorous fish into the reservoirs and remaining riverine sections. Future introductions of nonnative fish, and other organisms may threaten sturgeon chub and sicklefin chub through predation." See Federal Register/Vol. 60, No.11 Wednesday, January 11, 1995/proposed rules. One of the results of this finding is the petition for endangered species listing of the Sicklefin Chub and Sturgeon Chub were subsequently withdrawn, and plans to get the Blue Sucker, and Sauger listed were canceled even though warrented. Every true biologist, or Ichthyologist knows game fish are eating native fish. Barges aren't above Gavins, and barges don't eat native fish, only game fish do and this is the biggest threat to native species in any ecosystem. Yet American Rivers, has aligned itself with the American Sportfishing Association. Rebecca Wodders, American Rivers Pres. will be presented with the woman of the year award by the American Sportfishing Association in June. Where is the Sierra Club, the Audubon Society, and the Nature Conservancy when the fish need them? Isn't this a conflict of interest, or is this just about money, not birds and fish?

BILL BEACOM SIOUX CITY, IOWA

The Good Life Means Wildlife!

NEBRASKA WILDLIFE FEDERATION

February 18, 2002
Testimony of Duane Hovorka, Nebraska Wildlife Federation,
on the Missouri River Master Manual Rewrite

Good evening.

I am Duane Hovorka, Executive Director of the Nebraska Wildlife Federation. The Nebraska Wildlife Federation carries out our mission in support of wildlife and wild places in Nebraska through environmental education, fish and wildlife conservation, and common sense public policy.

I am also testifying on behalf of the National Wildlife Federation, the Nation's largest member-supported conservation organization, with over 4.2 million members and supporters. The Nebraska Wildlife Federation is the state affiliate of the National Wildlife Federation.

The National Wildlife Federation will be submitting written comments, which will probably be co-signed by the NWF affiliates in the Missouri Basin. The Nebraska Wildlife Federation has previously submitted testimony, and I would note that my testimony today supplements, but does not replace, the comments we submitted earlier.

In light of those more comprehensive written comments, let me make just a few key points tonight.

First, I'd like to thank Roger Patterson and the folks at the Nebraska Department of Natural Resources, and Governor Mike Johanns, for their work to bring together states in the Basin in support of an alternative that would begin to test the impacts of a slight spring rise in the River. The fact that most of the states are recognizing the need to make changes in the flow is a very important step, and I think their efforts deserve our thanks.

Second, I'd like to note that while the current discussion centers on the flow issues in the portion of the Missouri River below Gavins Point Dam, we should not lose sight of the many positive changes that were included in the draft re-write of the Missouri River Master Manual, especially with respect to management of the River upstream from Gavins Point.

Third, I note that while the current debate centers on the flow issue, we should all recognize the need for habitat restoration and protection measures throughout the Basin, and much of that work is outside the jurisdiction of the Missouri River Master Manual. The Big Muddy Refuge and other efforts to create a 'string of pearls' along the Missouri, to begin to restore the side channels, backwaters, and wetland complexes that we have destroyed, is vitally needed as part of the restoration effort.

We cannot rely solely on those habitat restoration and protection efforts, because there is still a need for the spawning cues and other benefits provided by a more natural river flow pattern. Likewise, we cannot rely solely on changes in the river flow under the Master Manual, because the spawning cues will not be effective unless spawning habitat is available. The two have to go hand in hand.

Fourth, I think you need to ask yourself as you re-write the Master Manual: 'what signal are we sending'? That, in my view, is a critical question.

If you refuse to make changes in the flow patterns on the Lower Missouri, you tell people the US Government is standing pat. You tell landowners along the river, the electric utilities and industries that depend upon the river for cooling water, the marina owners along the river, the barge industry, and others that they don't have to change. You send a clear message that they can continue to do what they are doing.

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And you tell the people who would invest their dollars in hunting and fishing businesses to take their money someplace else.

And if you do that, ten years from now things will only be worse. The species on the decline will continue to decline. The people who live along the river will have made few changes. The fishing. hunting and wildlife recreation industries will not invest. And you will likely have even more industries, even more powerplants, even more marina's built along the river that are designed to be reliant on the current flow regime.

And ten years from now, the solutions will be even harder, and more expensive.

But it seems clear to us that change is needed. The biology becomes clearer every day. The economic benefits of making changes in the Missouri's flow become clearer every day. The case for changing the river's flow is clear, and widely recognized. And if you fail to understand that need, and you fail to send a clear message to people throughout the Basin that change is coming, then you have failed, not just the river itself, but the people on all sides of these issues.

Our problem with the alternative put forward by the Missouri River Basin Association is based on at least two important counts.

First, it falls short of what is clearly needed to meet the minimum needs of fish and wildlife. The US Fish & Wildlife Service and our own biologists have articulated those minimum needs, and we urge you to adopt a plan that meets the species' needs that have been identified.

And second, it fails because it sends the wrong message. It sends the message that the Corps is going to stand pat, stick with the current plan, and only engage in short-term 'tests' of a different flow regime. And that, in my view, is the wrong message to send. It may be a 'feel good' message that people want to hear, but the people who are impacted need better from you; they need the truth.

And the truth is, that the river's flows have to change, and, ultimately, they are going to change. People need to start planning now for the change.

The fifth point I'd like to make is that we cannot afford delay. We therefore urge you to work quickly to bring this Master Manual rewrite to a close, so that the changes can begin to take place as soon as possible. We may not know everything about the biology or economics of the River, but we know enough. We need to continue to monitor and research the Missouri, but we cannot delay any further the start of making needed changes.

One final point I'd like to make concerns the path being chosen. For 170 years, we have molded the Missouri River for people. We have swung the pendulum just about as far as we can to the side of agriculture, and power production, and the barge industry, and it has come at the expense of the fish and wildlife in the Basin, and the people connected to fish and wildlife.

We are not asking for a return to 1804, a return to Lewis and Clark's river. We are not even asking that you balance the needs of people and wildlife, a phrase I hear over and over again. Were we to do that, to look at what is optimum for humans, and what is optimum for all other species, and then to find some spot in the middle with respect to operating the Missouri River, I have no doubt that the proposal would be far more radical than anything the Corps or others have even contemplated.

What we are asking for, and what indeed the Endangered Species Act calls for, is only the bare minimum. The bare minimum needed to prevent these imperiled species that we have driven to the brink of extinction, from falling to extinction.

Fortunately, in our view, the 'bare minimum' we are talking about -- clear changes in the river flow, such as that proposed in the GP 2021 option, plus restoration and protection of habitat up and down the river -- are also good for people. Yes, there will be individual winners and losers, just as there are under the current Master Manual. But overall, on a net basis, we think both people and wildlife will be better with these changes, than without.

Thank you.

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A River Undone:
River Flows In The Once-Mighty Missouri

Duane Hovorka, Executive Director
Nebraska Wildlife Federation

As the Corps of Engineers struggles to rewrite the Missouri River Master Manual, it faces a host of issues and a bevy of interests. What we increasingly recognize is that the price we are paying for the intended benefits of the Pick-Sloan Project: flood control, irrigation, and hydroelectric power, is a steep one indeed.

Aesthetically, we traded a sandy, braided, meandering river, flowing through a lush valley, for a deep ditch.

Biologically, we traded away an incredibly diverse landscape of wetlands, backwaters, riparian forests, deep and shallow channels, wet meadows, and tallgrass prairies, that once supported an incredibly diverse array of aquatic and terrestrial species. We sent into decline a host of species that had long ago adapted to the Missouri's turbid waters, or to the braided sandy river habitat.

Economically, we traded jobs in a thriving commercial fishing industry for jobs in the barge industry.

Culturally, we gave up on a central connection between people and the rivers they lived near -- a connection that dates back to the dawn of humankind -- for cities walled off by high levies.

Perhaps the highest cultural price we paid, and continue to pay, is that borne by the Native American Tribes whose land was taken for the projects: the Standing Rock, Cheyenne River, Yankton, Crow Creek, and Lower Brule, all Lakota (Sioux) Tribes, as well as the Mandan, Arikara, Hidatsa, Chippewas, Shoshones, Arapahos, Crows, Blackfeet, Crees, Assiniboines, Santee Sioux, and other Tribes whose land was taken, families uprooted, Tribal governments disrupted, by the Pick-Sloan Project. After more than a century of destruction waged on these Tribes by the United States Government, the Pick-Sloan Project was one more dagger aimed at the culture and the economy of these Indian Tribes.

Just as the price we are currently paying is high, the cost of restoring some of what we have lost will be high as well. Restoring a wetland is always more costly than protecting it in the first place. Moving levies back to allow the River to recapture a small part of its historic floodplain is always more costly than leaving the floodplain intact to start with. Replacing the forests and rich bottomlands that provided sustenance to a Tribe is a difficult and expensive task. Attempting to bring back a species that we have driven to the brink of extinction is never cheap, and never easy.

Yet the recent debate has centered on tiny, marginal changes in the operations of the system, and on budgets for restoration that pale in comparison with the billions and billions spent, in over a century and a half, to clear the Missouri of snags, narrow and channelize its waters, armor its shores, and build and regulate huge dams.

Opponents of change on the Missouri claim that we must 'balance the needs of humans and wildlife.' Indeed, we must.

For over 150 years, that balance has been set almost totally in favor of humans over fish and wildlife. The flood control efforts are for humans, not wildlife. Navigation is for humans, not wildlife. Little hydroelectric power is used by the region's fish and wildlife. Even the recreation provided for, such as the fishing provided for in the main stem reservoirs, aren't there to benefit the fish that get caught, but the anglers doing the fishing.

Only in the past several years has any consideration been given to the wildlife part of the balance. Adjusting the timing of releases to encourage rare terns and plovers to keep their nests high enough so they don't get drown by later flows is one example. Efforts to develop a series of wildlife refuges along the Missouri is another example of the work needed to begin to undo a small part of the damage we have done. Yet such examples are scarce.

River Flows

Before the construction of the Pick-Sloan dams, high flows in the Missouri typically occurred in April and June. April flows were the result of local snowmelt and rainfall. Higher peak flows in June were the result of runoff

from snowmelt in the Rocky Mountains, combined with local rainfall[1]. Today, those peak flows are captured by the large main-stem dams, and held and released on a schedule far different from the natural hydrograph.

Releases from those dams are governed by the Missouri River Master Manual, implemented in a series of annual operating plans by the US Army Corps of Engineers.

The timing of the releases is driven by the Corps' reading of the intended benefits of the Project, including navigation, flood control, recreation, and hyroelectric power. One of the key drivers is the desire to maintain a 9' deep, 300' wide navigation channel for barges. Depending on the amount of water available in the mainstem reservoirs, water is released to provide a 7.5 to 9' deep navigation channel from Sioux City to St. Louis. The result is a fairly flat hydrograph through much of the year; historic peak flows in the spring are reduced to reduce flooding and store water, and historically low summer and fall flows are increased to maintain the barge channel a provide for municipal and industrial water usage.

For conservation groups like mine, a key question with respect to flows is this: can the decline of the many terrestrial and aquatic species that depend upon the Missouri River, including endangered species like the pallid sturgeon, be turned around solely through the restoration of habitat areas that don't require specific flows, or does restoration and recovery require a change in the flow regime?

Sometimes, the recovery of a species can be linked to the restoration of specific kinds of habitat, such as backwater chutes, wetlands, or other areas that will provide suitable habitat. In those cases, altering the flow of a river might provide a more effective, and less expensive means of restoring the habitat, but flow alterations might be only a tool and not a critical element of the change. In some cases, restoration through mechanical means, while clumsy and often expensive, can provide the needed habitat.

In the case of the Missouri, it appears that changing the flow pattern of the River must be an integral part of the recovery plan. As the US Fish & Wildlife Service noted in 1993, "It is unlikely that successfully reproducing populations of pallid sturgeon can be recovered without restoring the habitat elements (morphology, hydrology, temperature regime, cover, and sediment/organic matter transport) of the Missouri and Mississippi Rivers necessary for the species continued survival."[2]

Although not enough is known about the pallid sturgeon because of its rarity, the Fish & Wildlife Service notes that research has demonstrated "significant negative relationships between artificial flow fluctuations in the spring and poor year class development for several native fish," including river carpsucker, shorthead redhorse, channel catfish, flathead catfish, sauger, common carp, smallmouth buffalo, and bigmouth buffalo.[3]

A modest spring release from Fort Peck and Gavins Point Dams, providing a modest spring rise in the River, would maximize the amount of warm water habitat needed by native river species such as the pallid sturgeon, and provide biological cues to encourage successful spawning by pallids and other river fish. The cycle of a modest spring rise, followed by lower summer flows, will also help provide biological cues needed for improved reproduction from the least tern, piping plover, and other declining species that rely on those natural cues for their biological clock.[4]

The Corps' implementation plan for the Missouri would only partially address these important changes in River flow. The Corps committed to spring rise tests from Fort Peck Dam over the next several years, and agreed to investigate flow modifications at Garrison Dam.[5]

However, with respect to the Gavins Point Dam, the Corps only "proposes to investigate and quantify the biological benefits accrued from various flow scenarios prior to establishing a final range of flow recommendations," and "commits to examine a range of releases in the spring and summer from Gavins Point Dam coupled with various habitat restoration/creation levels in the proposed Implementation Plan."[6] The Corps' plan falls short of what is needed to begin to restore the habitat on the lower Missouri.

[1] Department of the Interior, *Pallid Sturgeon Recovery Plan*, November, 1993, pg. 12.
[2] US Department of the Interior, US Fish & Wildlife Service, *Pallid Sturgeon Recovery Plan*, November, 1993, pg. 10.
[3] US Department of the Interior, US Fish & Wildlife Service, *Pallid Sturgeon Recovery Plan*, November, 1993, pg. 11.
[4] US Fish & Wildlife Service, *Missouri River Endangered Species: How Do the Service's Recommendations Benefit Them?* Denver, November, 2000.
[5] US Army Corps of Engineers, *Draft Implementation Plan for the Final Biological Opinion on Operation of the Missouri River Main Stem Reservoir System, Operation & Maintenance of the Missouri River Bank Stabilization & Navigation Project, & Operation of the Kansas River Reservoir System*, December, 2000, pg.5.

Navigation on the Missouri

It should be noted that conservation groups have reasons to support, not oppose, barge traffic. Barges are energy efficient, and barges moving freight emit less air pollution per ton-mile than competing modes of transportation like trucks. Where barging is appropriate, it should be one of the preferred modes of transportation.

It should also be noted that, in the United States, barges are also the most heavily subsidized mode of transportation. Unlike railroads, which build, maintain, and pay taxes on their rights of way, and trucks, which pay fuel taxes and other user fees that offset most (but not all) of their fair share of the cost of building and maintaining roads and highways, the inland waterways of the U.S. were cleared of snags, ditched, dammed, and diked at taxpayer expense. Although barges now pay a fuel tax to offset a portion of the cost of inland waterway projects, a large share of inland waterway construction and maintenance costs are paid by taxpayers. The net effect is that a substantial subsidy is provided to the barge industry -- and agriculture and other industries that ship by barge -- from American taxpayers.

The subsidy is especially pronounced on a River like the Missouri, where a long stretch of River is being maintained and operated for the benefit of a very small amount of freight.

Yet for conservation groups, it has been long swim against the current just getting the Corps of Engineers to consider changes in Missouri River operations that would impact barge traffic. After the Corps published its Draft Environmental Impact Statement in 1994 on revisions to the Master Manual, and after hearing extensive opposition to its designated preferred alternative, the Corps developed and examined 64 different alternatives to managing the River. It attempted to answer questions about the potential for unbalancing system storage in three upper reservoirs, for water conservation, and for releases timed to benefit fish and wildlife, and it purported to examine the effect of changing navigation service and establishing a target flow at St. Louis to aid Mississippi River navigation.

However, of all of the 64 options considered, only one examined a split season for navigation, where navigation was provided for in the spring (when fertilizer is moving north) and the fall (when grain is moving south), but was not provided for in the summer. And the eight "representative" alternatives published and discussed widely by the Corps did not include the split-season navigation option.[7] It was only with the intervention of a US Senator that the Corps agreed to give the split-season navigation option a serious look, and to perform the kind of analysis that was routinely done on other alternatives.

Downgrading the importance of barge traffic in the management of the Missouri River is not a new idea. In 1952, President Harry Truman appointed the Missouri Basin Survey Commission, an 11-member body of regional experts and members of Congress, to examine the many problems of the Pick-Sloan Project. In 1953, they issued their report, calling for a reorganization of the project, for a greater share of the project costs to come from state and local sources, and for relegating navigation to the lowest priority for water use. The Commission questioned the need for a nine-foot navigation channel, and called for a more thorough investigation of the entire Missouri Basin program.[8]

Unfortunately, as we have come to expect on Missouri River matters, politics won out. The incoming Eisenhower Administration ignored the Commission's report. The Corps of Engineers and Bureau of Reclamation blasted the report, and others like it critical of the Pick-Sloan Project, stonewalling opponents. Instead of addressing the problems, the two agencies pressed for extension and expansion of the Project, and in the end, Congress and the Eisenhower Administration obliged.

Today, powerful interests in the barge industry, in agriculture, and in the agrichemical industry provide political support for maintaining full barge service on the Missouri (and other rivers), despite the small amount of freight that moves on the Missouri.

[6] US Army Corps of Engineers, *Draft Implementation Plan for the Final Biological Opinion on Operation of the Missouri River Main Stem Reservoir System, Operation & Maintenance of the Missouri River Bank Stabilization & Navigation Project, & Operation of the Kansas River Reservoir System*, December, 2000, pg.6.
[7] US Army Corps of Engineers, *Summary of the Preliminary RDEIS, Master Water Control Manual, Missouri River*, August, 1998.
[8] Michael Lawson, *Dammed Indians*, University of Oklahoma Press, 1982 and 1994, pg. 114, citing the original report of the Commission.

Sediment in Flows

As we are learning on the Platte River, simply altering river flows and providing additional riparian habitat may not be enough. Sediment must be an important factor in a recovery plan. The large main-stem dams on the Missouri captured water, but they also captured the sediment and organic matter suspended in the moving waters of the River. The discharge of sediment and nutrients (organic matter) into the Missouri and Mississippi River system was cut by 80%, and the sediment load of the middle Mississippi River was cut by two-thirds from pre-dam days[9].

As will be discussed below, organic matter is one of the essential building blocks for aquatic life in the River. Sediment is the building block of the sandbars and braided channels in the River. Robbing the River of sediment takes away its potential to build new wetland areas, new backwater areas, new habitat.

Robbing the River of suspended sediment and organic materials has other impacts on the aquatic life. Fish species like the pallid sturgeon are well-adapted to the turbid world of the 'muddy Missouri,' using its murkiness to hide from predators and to stay hidden from their prey. When the turbidity declines, the clearer water gives the upper hand to sight-feeders like northern pike, walleye, and smallmouth bass, and as a result the species adapted for life in the pre-development River have declined.[10]

To begin the recover the species that are endangered or in decline, and that are adapted to the turbid waters that characterized the Missouri before the Pick-Sloan Project, will require careful consideration of the role of sediment and organic matter in the River. The only mention of this issue in the Corps of Engineers Draft Implementation Plan is a commitment to initiate sediment studies "as long as appropriations allow for it," and to develop and initiate "smaller scale sediment transport/turbidity studies[11]." This clearly is an issue that will require further research and study, and that should be the subject of attention under the Adaptive Management Element of the program.

The Great American Fishery

The lower Missouri River was once an incredible fishery resource. 156 species of native fish have been identified in the Missouri[12]. In 1804, as the Lewis and Clark expedition made its way west, it caught what was probably a channel catfish, right across the River from Bellevue, Nebraska[13]. That was the first time the species was identified and cataloged, but it would not be the last time the expedition dined on fish. The expedition's journals record the presence of pike, bass, perch, and perhaps even trout in the lower Missouri.

Many of the Native American Tribes that populated the region were well aware of the fishery resources in the Missouri. Although the Lakota (Sioux) tribes that moved to the region in the 1700's were not known to utilize the River's fish as a major food source[14], other Native American Tribes that were earlier inhabitants, like the Ioways, made good use of the fishery resources in the Missouri and its tributaries[15].

Even after settlers came, the Missouri provided a lucrative fishery resource. Old-timers say the stretch of the Missouri between Blair and Plattsmouth, Nebraska, supported 100 commercial fishermen at one time[16]. In recent years, the Nebraska Game & Parks Commission closed the Missouri River to commercial fishing in order to conserve what little was left of this once-vital fishery resource for sport fishing.

Today, of the native aquatic species are in to decline, the product of more than a century of effort that has seriously reduced their available habitat, destroyed and drained their spawning grounds, and eliminated their primary food sources.

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[9] Department of the Interior. *Pallid Sturgeon Recovery Plan*, November, 1993, pg. 12, citing Fremling, C.R., et al, *Mississippi River Fisheries: A Case History*, pg. 309-351, 1989, *in Proceedings of the International Large River Symposium*, D.P. Dodge ed.

[10] Department of the Interior, *Pallid Sturgeon Recovery Plan*, November, 1993, pg. 12-13.

[11] US Army Corps of Engineers, *Draft Implementation Plan for the Final Biological Opinion on Operation of the Missouri River Main Stem Reservoir System, Operation & Maintenance of the Missouri River Bank Stabilization & Navigation Project, & Operation of the Kansas River Reservoir System*, December, 2000, pg. 10.

[12] Botkin, Daniel, *Passage of Discovery*, Berkley Publishing Group, 1999, pg. 33.

[13] Botkin, Daniel, *Passage of Discovery*, Berkley Publishing Group, 1999, pg. 33.

[14] Michael Lawson, *Dammed Indians*, University of Oklahoma Press, 1982 and 1994, pg. 57.

[15] Martha Royce Blaine, The Ioway Indians, University of Oklahoma Press, 1979, pg. 14.

[16] Botkin, Daniel, *Passage of Discovery*, Berkley Publishing Group, 1999, pg. 66.

In fairness, one of the trade-offs we achieved in damming the River was the establishment of reservoir-based fisheries behind the six great dams. The Corps' estimates for annual recreation benefits on the system are impressive, and probably understate the actual economic impact of recreation[17]. Sport fishing is a major source of recreation, and here too, the current operation of the dams -- high releases during the summer to support down-stream navigation -- have an impact on both the fishery and on the recreational opportunities for humans.

Changes in the Master Manual, such as unbalancing the operation of several of the reservoirs, would improve the fish habitat in these reservoirs. Reducing summer navigation flows would allow for smaller fluctuations in lake levels during the prime summer recreation months.

The "taming" of the Missouri has included the draining of connected wetlands, channelization of the River, changes in the flow regime, and elimination of the backwater and sandbar areas. But one seemingly innocuous activity -- the clearing of snags -- has also gone a long ways toward destroying this once-great fishery.

For Lewis and Clark, getting stuck on a snag -- a tree that had fallen into the River and lodged there -- was almost a daily occurrence. As the Missouri Basin was settled by Euro-Americans, one of their first activities was to begin to remove the snags that hampered the use of larger boats up and down the Missouri. An effort ensued -- with substantial federal and local funding -- that lasted more than a century to remove the snags and clear the Missouri. And they largely succeeded; they made the River safe for the barge industry.

Unfortunately, and probably unbeknownst to most at the time, removing those snags also removed a basic building-block of the aquatic life in the Missouri. In a fast-moving River like the Missouri's channel was, even before development, those snags provided the only stable places where small critters -- benthic macroinvertebrates, if you will -- could lodge and gain a foothold. The snags also caught grass, leaves, and other litter that fell into the River, providing a ready food source for those macroinvertebrates[18].

Unlike the great rivers in the East and West, where the rocks and boulders of a river's substrate can provide that stable foothold, the Missouri's substrate is sediment, small gravel and sand. Macroinvertebrates struggling for life have limited choices for lodging, the slow-moving backwater areas, or the snags lodged in the faster-moving parts of the River.

Even today, if you find a stick or a log that is lodged along the Missouri's banks and pull it out of the water, it usually has an assortment of insect larvae and other macroinvertebrates stuck to its surface, clinging for life. Those macroinvertebrates are at the bottom of the food chain in the River, they are the food source that smaller fish feed on. The small fish get eaten by the big fish, and on up the food chain. But, if you don't have the critters at the bottom of the food chain, those tiny critters clinging to life on that snag in the River, then you can bring down the whole food chain. And that is exactly what we have done.

In the early days, the removal of snags from the main channel may have had an impact on the fishery, on the fish that largely stayed and fed in the deeper, faster-moving parts of the River, although there were still plenty of side channels, chutes, wetlands, and other slow-water areas where snags were abundant and where macroinvertebrates could thrive. But as we eliminated those slow-water areas, moved levies closer and closer to the River, turned the River from a wide braided network of channels into a single, deep ditch, we have largely eliminated the areas where macroinvertebrates could find food and lodging[19].

In terms of lodging, the rip rap that now armors the banks of the Missouri has probably provided some stabilized areas where critters could get a foothold. But those rocks do not provide the necessary food source, and they do not as readily trap leaves and grass moving down the River. By manipulating the River's flow and narrowing the flood plain, by installing the rip rap itself, and by eliminating those backwater and wetland areas, we have also substantially reduced the volume of grass, leaves, and other organic matter available to those little critters at the bottom of the food chain.

In short, by all that we have done we have starved, almost to death, what was once one of our Nation's greatest fisheries in the lower Missouri.

Beginning to restore this once-great fishery will require a diverse array of changes. One of the basic requirements will be to begin to restore the basic building blocks of life in the River, by providing areas where snags can provide food and lodging for the macroinvertebrates that are at the bottom of the food chain. If leaving snags in the main channel is unacceptable to the barge industry -- and it obviously is -- then we need to restore

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[17] Scott Faber, *Corps Study Underestimates Recreation Value, Potential*, Missouri Monitor, Cotober, 1998.

[18] Department of the Interior, *Pallid Sturgeon Recovery Plan*, November, 1993, pg. 13.

[19] See Department of the Interior, *Pallid Sturgeon Recovery Plan*, November, 1993, pg. 13, citing a 65% decline in the abundance of snag insect production in Nebraska's portion of the Missouri River between 1963 and 1980 documented by G.E. Mestl and L.W. Hesse, 1993, US Fish & Wildlife Service.

backwater areas, chutes, side channels, wetlands, and other areas where snags are acceptable, and where they can again provide the basic food source that feeds the aquatic life in the River.

Water Quality

Water pollution is also a problem on the Missouri. Unfortunately, when the issue is addressed in settings like the review of the Missouri River Master Manual, the primary focus is often on the dilution effect of different flows. That is the case here, where the Corps of Engineers assessment of the various flow alternatives notes that "lower River flows provide less dilution for the warmwater discharges from the powerplants, and thus lead to higher river water temperatures," and "increased amounts of water in storage and average river flows generally result in better water quality."[20]

The problem, of course, is the pollution itself, not the changes in dilution caused by changing flow regimes.

The State of Nebraska's official list of impaired waters (the EPA 303(d) list) shows the Missouri River as being impaired for nearly its whole length along the eastern border of Nebraska. A primary stressor is the presence of pathogens, which come from agricultural sources (livestock operations) in rural areas, as well as municipal water treatment systems and stormwater runoff in urban areas[21]. The City of Omaha still operates with an old, combined sewer overflow system that can result in raw sewage being released into the Missouri as a result of heavy rains.

Major tributaries of the Missouri are also polluted, including the Platte River, which is polluted by pathogens from livestock.[22] Earlier reports indicate that the Missouri and its Nebraska tributaries are variously impaired or threatened by pathogens, a lack of biodiversity, pesticides, nutrients, and siltation.[23]

Water pollution can disrupt the aquatic habitat, threaten pollution-sensitive macroinvertebrates that serve as a food source for fish, and stress aquatic life. Pollution in the Missouri River is also finding its way into fish tissue. PCBs, cadmium, mercury, and selenium were detected at elevated levels in three pallid sturgeon collected from the Missouri River in Nebraska and North Dakota[24]. Detectable concentrations of chlordane, DDE, DET, and Dieldrin were also found. In Nebraska, fish tissue advisories have been issued for PCBs and Dieldrin for fish caught in the Missouri River downstream from Omaha, and in tributaries including the Lower Platte and Papillion Creek. Two Omaha-area lakes, Zorinsky and Wehrspann, have been the subject of fish consumption advisories for mercury.[25] Fish consumption advisories are issued when fish tissue samples of game fish like catfish and bass indicate as level of contaminants that warrants a public health concern.

Water quality problems get short shrift from Nebraska and other states in the Missouri River Basin. Clearly, we need additional research on the impacts of pollution on rare and declining species in the Missouri, and on the primary food sources for those species. We must factor into flow decisions the potential impact on water quality with respect to the dilution effect, but the real answer to our water quality problems is to spend the money to improve our water quality monitoring, and to develop and implement watershed cleanup plans that reduce and eliminate pollution at its source. This is an effort the state governments in the Basin must take the lead on. Water quality is extremely important and warrants much more attention, but the flow regime of the Missouri River Master Manual should not be driven by the dilution issue.

Letting the River Run

St. Charles, Missouri, is an example of the problems created when we try to manage the River too intensively. St. Charles is north and across the Missouri River from St. Louis, near the mouth of the Missouri. The buildings on the town's main street had stood since 1787, high enough to remain dry for more than a century and a half before the "benefits" of the Pick-Sloan Project.

[20] US Army Corps of Engineers, *Summary of the Preliminary RDEIS, Master Water Control Manual Missouri River*, August, 1998, pg. 14.
[21] USDA Natural Resources Conservation Service and Nebraska Department of Environmental Quality, Nebraska Unified Watershed Assessment, Lincoln, Nebraska, October, 1998.
[22] [22] USDA Natural Resources Conservation Service and Nebraska Department of Environmental Quality, *Nebraska Unified Watershed Assessment*, Lincoln, Nebraska, October, 1998.
[23] Nebraska Department of Environmental Quality, *1996 Nebraska Water Quality Report*, April 1996, Lincoln, Nebraska.
[24] Department of the Interior, *Pallid Sturgeon Recovery Plan*, November, 1993, pg. 14.
[25] Nebraska Game & Parks Commission, *Nebraska Fish Consumption Advisories*, October, 1998.

Yet in 1993, the waters of the Missouri River rose higher than ever before, almost reaching and flooding the town's main street that had been dry so long. Only when a levy downstream gave way, relieving the pressure of the River, was the area saved from flooding. 1993 was a very unusual year, true, but the flooding upstream was compounded by the elimination of wetlands throughout the Basin, and by hundreds of miles of dikes and levies that had narrowed and isolated the River from its floodplain, forcing the water downstream towards St. Charles[26]. Although the main street of St. Charles was spared, many communities up and down the Missouri were not so lucky in 1993.

Moving the levies back from the River, giving the Missouri back some of its historic flood plain, would help prevent flood damage in the future by letting the River's waters spread out, rather than forcing the water downstream. Broadening the flood plain could also help accommodate a spring rise flow strategy, by providing a buffer between the River and the adjoining farmland, giving that farmland a space to drain into. Moving the levies back in some locations should also provide additional opportunities to create fish and wildlife habitat.

Conclusion

The Missouri River has been dammed, diked, and straightened, starved of life-giving nutrients, robbed of the snags, side channels, backwaters, and connected wetlands that once made the Missouri River Valley an incredibly productive area for fish and wildlife. It isn't just the River itself that has been radically changed since the days of Lewis and Clark, it is the River's fishery and the wildlife habitat connected to the River that has suffered a severe blow.

Today, in rewriting the Master Manual for the Missouri River, we have an opportunity to take several small steps towards restoring this once-great resource. Shame on us if we fail.

> "In the final accounting, we sacrificed one of the world's most biologically important and aesthetically pleasing rivers -- and a commercial fishery that once supported thousands--to move a handful of barges."
>
> Stephen Ambrose, historian[27].

[26] Botkin, Daniel, *Passage of Discovery*, Berkley Publishing Group, 1999, pg. 24.
[27] Ambrose, Stephen, in the Introduction to *Passage of Discovery*, Berkley Publishing Group, pg. xvi.

Tuesday; February 19, 2002

Lanny Frakes
13371 SW State Route KK
Rushville, MO 64484-9588

General David Fastabend
USACE Northwestern Division
12565 West Center Road
Omaha, NE 68144-3869

Missouri River Master Manual Review
Council Bluffs, Iowa

Good Evening General Fastabend:

My name is Lanny Frakes and I live at 13371 SW State Route KK, Rushville, Missouri 64484-9588 which is located in Southwestern Buchanan County near Missouri River mile marker L-428. I am a fourth generation farmer and have lived and farmed in the area my entire life. I am Secretary-Treasurer of the Rushville-Sugar Lake Levee Association, which is a non federal levee that protects approximately 8,000 acres. I am Secretary of the Halls Levee District, which is federal levee unit located SouthWest of St. Joseph, MO and protecting 18,000 acres. I am currently on the board of directors representing Missouri Levee and Drainage District Association and I mention the above to correlate my interest in Missouri River policy.

I thank the Corps Of Engineers and your staff; General Fastabend, for conducting these hearings and allowing public comment on MO River issues. I ask that the public be allowed to continue to participate in offering their comments and the subsequent review of these comments by the Corps.

I am opposed to a Spring Rise as released from Gavens Point as I believe the release of 15,000 cfs to 20,000 cfs from May 1 to June 15 would have the potential to create flooding problems, delayed and or prevented planting, drowned or stunted crops, and internal drainage problems. I realize the Corps would not make these releases when lower basin River levels were at or near flood stage. My concern is for when the Spring Rise release has begun; under acceptable guidelines, and rainfall events below Gavens Point coincide with releases. Weather forecasting is not an exact science and are not accurate for 10 to 11 days in advance, which is the approximate time for releases to travel from Gavens Point to St. Louis. May 1 through June 15 is historically a time frame when large rainfall events occur.

Flood control is paramount for the lower basin as the combination of levee units being constructed and dams completed in the upper basin have led to vast improvements and expenditures being made along the lower MO River Basin. Cities, towns, industry, agriculture, public infrastructure, and residents are dependent on flood control as we move into the upcoming century. We must not jepordize flood control.

A Spring Rise causing higher MO River levels of 3.5 to 4.0 feet in the spring planting season would be detrimental to our area's farmers. Floodstage at St. Joseph, MO is 17.0 feet and our area begins to experience internal drainage problems at levels above 13.0 feet. These problems are compounded as levels rise and cause delays in planting along with stunted crops that are caused to develop a weak root system that develops on the top of the ground due to high ground table water levels. As the heat of the summer months arrive these crops and root systems are unable to withstand the stress of going from one extreme to the other. A Spring Rise followed by reduced summer flows would cause a poor growing envirionment. Many acres would go unplanted if the spring rise coincided with above normal rainfall in the lower basin.

Internal Drainage problems are compounded as MO River levels rise and local rainfall and run-off from uplands coupled with seep water caused by the high river levels cover land on the protected side of the levee systems. These high MO River levels do not allow for the normal discharge of internal water through drainage structures. Crop planting and growing conditions deteriorate rapidly with each day these problems persist. Stunted crops rarely recover their potential from these conditions even if they actually survive.

I realize the Corps is mandated by law to protect endangered species. A recent census presented by U.S. Geological scientist Susan Haig as documented by Envirionment News Service: Ameriscan: January 25, 2002 in regard to field data for the 2001 International Piping Plover Census denotes that Plover numbers have grown 470 per cent in the last five years and 140 per cent in the past ten years along the MO River. Ms. Haig further denotes that the increase in numbers along the MO River might be due to recent favorable habitat conditions.

The Biological Opinion states there is a substantial decline in plover population numbers but the 2001 International Piping Plover Census shows a large increase in numbers under the current water control plan. I see the need for more review of this matter as these two reports are contradictory to the other.

I believe endangered species can benefit by improving habitat on public lands in the MO River Basin without making flow changes. Human lives and their livlihoods must not be harmed through the enhancement of fish and wildlife habitat.

I thank you for this opportunity to express my views.

Sincerely,

Lanny Frakes

Lanny Frakes

Oral Testimony:
Lynn M. Muench
The American Waterways Operators

Missouri River RDEIS Public Hearing
Council Bluffs, Iowa
February 19, 2002

I am Lynn Muench, Vice President of the Midcontinent office of The American Waterways Operators. AWO represents the towboat and barge operators on America's coastal and inland waterways system, including on the Missouri, Mississippi, and Illinois Rivers. Today, I'm here to articulate our industry's concerns with the alternatives presented in the RDEIS and our vision of the future.

The alternatives presented to the public are all highly influenced by the U.S. Fish & Wildlife Service's (Service) Biological Opinion. AWO members are concerned that:

1. The scientific process used to reach the biological opinion is highly flawed.

2. The Service has broken federal law by not designating critical habitat for the endangered species.

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3. The Service has admitted that it does not have any notes or proof of over 30 sources listed as "personal communications" in the biological opinion – even first year biology students understand that this is unacceptable scientific conduct.

AWO is concerned that what the Service hopes to achieve with their recommendations is fuzzy. AWO is also concerned that it is questionable whether the recommendations are based on scientific facts or politically influenced beliefs. AWO concerns include:

1. The split-navigation season, which would destroy waterway transportation on the Missouri River and cripple it on the Mississippi River, will only increase endangered species' habitat by only 164 acres. According to the Missouri Department of Natural Resources (MODNR), these acres could easily be created without flow changes.

2. The MODNR has begun a Pallid Sturgeon breeding program. Intuitively, it appears more likely that Sturgeon

are not breeding in the wild due to their limited populations – they simply can't find each other. A breeding program would allow recovery of the species without negatively impacting navigation, power generation, water quality, historical properties or flood control.

3. There are over 2,000 miles of river, including parts of the Missouri, Mississippi, and Yellowstone Rivers, where a "spring rise" naturally occurs. The Pallid Sturgeon is still not increasing in population at these locations. What could less than 300 more miles of "spring rise" do to improve their viability as a species?

4. The increased reservoir levels of the Modified Conservation Plan (MCP) and all the Gavin's Point (GP) plans will actually decrease habitat for the Piping Plover and Interior Least Tern. Why should we decrease habitat already in place?

5. Why hasn't the Service evaluated the negative impacts on species that are presently viable in the Missouri River, the Mississippi River, and their tributaries? As a large basin-wide evaluation, negative environmental impacts that will likely occur must be considered.

AWO members request that the Corps and the Service renew their search for win-win solutions. As suggested by the NAS, a moratorium should be placed on this process until good scientific theory can be confirmed as good science.

AWO members are very troubled that Missouri River navigation is not properly considered due to the following flaws with the studies assumptions, including:

1. The Corps has underestimated flow levels needed for minimum service. The Corps used flows that were needed

pre-1993 flood. Over 100 dikes have not been repaired since the 1993 flood, increasing the amount of flow needed by several thousand cfs.

2. The economic potential of the Missouri River is greatly underestimated. Since the 1980s, when this debate began and the future of the navigation industry became uncertain, business on the river has moved from 5-year contracts to spot basis and docks and terminals have been disinvested. Why would any sane business invest in a transportation system with its future so unpredictable? The adoption of CWCP could positively impact future investment and traffic.

3. The Corps did not take into account the effect of water depletions in the upper basin; therefore, all data on water available for flows to support navigation is incorrect. This negative impact on Mississippi River navigation has not been evaluated. Using Corps assumptions, initial industry analysis suggests these changes in flows from the Missouri

will increase shipping costs on the Mississippi and Illinois Rivers by $7.5-30 million per year. The Corps has yet to provide even initial impacts on this nationally important river system.

4. The split navigation season will eliminate barge traffic on the Missouri River despite the Corps' optimistic tables. The Corps foresees a 30% reduction in the 8 months from April 1- December 1 on the Missouri River. Let's look at an analogy. A 30% reduction in Wal-Mart's 12-month season would force closure from September 14 to December 31. Does anyone believe this would not destroy the company's economic viability?

5. The Modified Conservation Plan (MCP), one of the six preferred alternatives, is also the underlying plan for the four GP plans. But what is conserved? It appears that water is conserved for use in the upper basin. It is not conserved for navigation, drinking water, electrical generation or

recreation in the lower basin. Where is the balanced approach that the Corps and the MRBA has espoused?

Another major concern is "Adaptive Management". This process will leave the Annual Operating Plan (AOP) open for change every year. The change will be mandated by the Service and the Corps with no public input. This is illegal under NEPA and deprives navigation of reliable flows for navigation. This will also decrease or eliminate Mississippi River reliability.

I'd like to thank the Corps for this opportunity. How we decide to balance the multiple uses of this important national treasure will indicate how much we, as a nation, value economic prosperity, the health of the family farm, and our environment.

In summary, AWO remains strongly opposed to any change in Missouri River reservoir operations that will jeopardize Missouri River or mid-Mississippi River navigation and its economic benefits to the region and nation. AWO endorses the CWCP without adaptive management.

Home

Subscribe

February 12 - HAS THE TIDE TURNED ON HYPOXIA ISSUE? A meeting to discuss the issue of the Hypoxia Zone in the Gulf of Mexico was conducted in St. Louis last week and according to Garry Niemeyer, the entire tone of the meeting was different than past sessions, and different in a positive way. "The people involved were more calm, more logical, and less emotional than at past meetings," said Niemeyer, Illinois Corn Growers Association President of Glenarm. The US Environmental Protection Agency Hypoxia Conference was widely attended by governmental entities from the Army Corps of Engineers to state Departments of Natural Resources (DNR), environmental groups, industry, and agriculture. Niemeyer said the entire issue seems to have lost some of its urgency. EPA has about 21 projects in the works for next year to monitor Hypoxia with a price tag of $20 million. Sound high, but compared to some past spending requests, this is actually a bargain. During panel discussions which included several state DNRs, Agriculture and Interior departments, EPA, Army Corps, and USDA, Niemeyer offered the following comments for their consideration:

" Would this committee become proactive so as to help farmers efforts of reducing sedimentation and nitrogen from entering the Mississippi River? As conscientious producers, we have been reducing nitrogen application rates as well as using Best Management Practices to reduce sedimentation from entering or leaving our watersheds and that is what we are doing on our land in central Illinois. However, we are much more concerned by another event that may be about to take place that is totally out of our control, especially considering the interrelated relationship of our river systems. That is the Spring Rise proposal being considered by the Army Corps for the Missouri River. At certain months of the year, 60% of the water in the Mississippi River comes from the Missouri River. The Spring Rise concept, that would replace the current Master Manual (the Army Corps guidebook for river management), would send excessive amounts of water down the Missouri during the months of April, May, and June. This would not only flood farms along the states of Iowa and Missouri but just think of the excessive amounts of nitrogen that would be washed into the Mississippi River above and beyond what we are already trying to alleviate. The threat of this change will override all of our efforts to date. I request that each and everyone of you work to stop this Spring Rise Concept. Remember, all rivers that are connected have an interrelationship to each other. Your efforts to stop sedimentation and nitrogen entering the Mississippi River has the potential to be overridden by some of your own interconnected agencies. Will you help to stop this unintended and unnecessary consequence from happening?"

Other observations include: Hypoxia efforts seem to be focused on keeping nitrogen from getting into water in the first place but a lot of monitoring projects are still being conducted. Niemeyer said, he found an economic study presented by Iowa State University particularly interesting. It states that if Nitrogen applications were reduced by 20%, yields would be reduced by 10% and profits would be reduced by 50%.

The efforts seem to be focused on keeping nitrogen from getting into water in the first place and lots of monitoring projects.

Food for thought indeed! As a final note, if you are interested in modernizing the locks on the Upper Mississippi and Illinois River system the Army Corps will be

conducting a series of hearings on their "restructured" navigation study. The only Illinois hearing will be held March 12, in Peoria. Other nearby hearings include: March 13, St. Louis, MO; March 21, Davenport, IA; and March 20, LaCrosse, WI. An information session will be held from 1-3 p.m., with a public meeting and an opportunity to comment from 5-7 p.m. More information will be posted here soon.

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SIERRA CLUB IOWA CHAPTER
FOUNDED 1892

February 19, 2002

Army Corps of Engineers
Missouri River Hearing
Council Bluffs, Iowa

Thank you for providing this opportunity to comment on the management plans for the Missouri River.

I am here on behalf of the Iowa Chapter of the Sierra Club to express support for GP2021, the "Flexible Flow alternative". This is the alternative that will best suit the recommendations of the United States Fish and Wildlife Service, recommendations that are strongly supported by a two year study conducted under the auspices of the National Academy of Sciences.

The current management stratgegy for the Missouri River has been designed with the interests of only one sector of the economy in mind, that of the barge industry. Now you are being asked to look at what this means to other sectors of the economy as well as to the living things that inhabit the water and shores of this great American river.

Mr. Christopher J. Brescia, President of the Midwest Area River Coalition, in his testimony before the congressional Mississippi River Caucus in March said, "It's time for a national debate on the values of the waterway system." We would agree.

Let us take look at the losses, for example, those of the commercial fisheries that once thrived on the Missouri. Let us look at the unrealized potential of hydroelectric power generation, which the National Academy of Sciences study tells us could be boosted by another ten million dollars, if dams could be modified with energy generation in mind instead of being designed for the benefit of the barge industry.

Let us take a close look at the barge industry itself. As Mr. Tim Burrak of the National Corn Growers Association reported to the US House of Representatives last March, "Barge crews, specifically deck hands, are an entry-level position, with a high turn over rate." If you investigate, I believe you will find that railroad workers, on the other hand, are union workers who can sustain an American family on their salaries.

Barge operations are hampered by high winds, fog, rain, current flows, differences in water levels and by ice. Rail transportation is not. Rail transportation can be accessed inland, closer to the farm, and is not limited to river corridors. What if we were to take the national resources we now invest in the barge industry and invest them in our rail system? Could this make railroading more competitive and lower rail transportation costs, not just along river corridors, but all over the nation?

The US Fish and Wildlife Service tells us that allowing this river to operate with a heavier flow in the spring and a lighter flow during the late summer will benefit three species, the pallid sturgeon, the piping plover and the least tern. These three species are of special concern to us because they have been placed on a threatened or endangnered list, but these are not the only living creatures that depend on this river for their existence, and certainly not the only species that have become vulnerable. For example, under present river management practices, habitat for insects, which provide food for fish in the water as well as birds when they emerge into the air, has been reduced by as much as 60%. Without food no species can survive. Without ample food, no species can thrive.

3839 Merle Hay Road, Suite 280, Des Moines, IA 50310 Tel: 515-277-8868 iowa.chapter@sierraclub.org

SIERRA CLUB IOWA CHAPTER
FOUNDED 1892

River edge rowcrop land is an economic and environmental liability. It is a source of revenue drain when losses need to be compensated in flood time, and a source of anxiety to the landowner, who experiences just how unreliable this land can be. What we haven't realized until recently, is the value to the economy, the environment and the community of restoring these areas to wetland. Sierra Club supports easements for wetland restoration that could be purchased through programs such as WRP, EWRP or other long-term or permanent set-aside efforts. These wetlands, if we allow them to exist, will protect our farmland and communities by storing water, which serves to mitigate the effects of both drought and flood.

One of the speakers at the December Pew Oceans Commission hearing in Des Moines presented his vision of a restoration project for the Midwest on the scale of the Everglades restoration. What better place to start than with the Missouri River? What better time to start than now?

Thank you,

Peggy Murdock, Secretary
Iowa Chapter of the Sierra Club

3839 Merle Hay Road, Suite 280, Des Moines, IA 50310 Tel: 515-277-8868 iowa.chapter@sierraclub.org

My name is Doug Gronau, and I am a farmer from west-central Iowa. I have lived between 8 to 50 miles from the river my entire life and I am very concerned about the economic consequences of the proposed changes to the Current Water Control Plan for the Missouri River.

Reduced summer flows along the river would eliminate barge navigation for several months and give shippers one less option to move farm commodities to their final destination. This will increase freight rates and have a direct negative impact on the prices farmers receive for their products. Recently, as an example, just the threat of importation of Brazilian soy-meal by ship to the southeastern region of our country, has reduced rail freight rates to that area from the Central United States. Low flow on the Missouri River could impact shipping on the Mississippi River during the summer months if a drought condition exists in the upper Midwest and cause serious market losses for farmers in all of Iowa and the ~~upper~~ Midwest. region.

Reduced summer flows could hamper power generation in our region, just when the demand for power is highest. Future economic activity is dependent on plentiful and reasonably priced power.

Reduced summer flows will cause severe economic hardships for marinas and boaters by making the river unusable for boating activity during the summer months, in an area already lacking large lakes.

Reduced summer flows could make any drought that may occur, worse by lowering the water table when rainfall and soil moisture are most needed by crops.

Reduced summer flows for wildlife can be accomplished by other less costly methods, such as the use of chutes and backwaters.

Excessively high spring flows can be a major problem for agriculture. Not only could very high flows limit navigation, but also it would raise river levels at a time when all farmers are facing seasonal drainage problems in their fields. These drainage problems, combined with a very high spring river level, and sudden, heavy spring rains could cause serious problems, not only for drainage, but could cause actual flooding, particularly in Southwest Iowa and further down stream.

In conclusion, a change in management of the Missouri River to accommodate upper river interests at the expense of the interests of lower river states, will have a devastating effect on our economic well being far in excess of the economic benefits gained by the upper river states. The Corps of Engineers should use a balanced management plan, one that will not cause major economic and recreational disruptions to citizens of the lower Missouri River.

Oral Testimony

Paul C. Rohde, Vice President

Midwest Area River Coalition 2000 (MARC 2000)

Council Bluffs Public Hearing

February 19, 2002

Good evening General Fastabend. My name is Paul Rohde and I appear before you today on behalf of MARC 2000. As you know, we have taken the opportunity to testify at five other public hearings, focusing on various aspects of the RDEIS. Today, our comments relate to the "conservation" premise of the MCP and GP proposals. Since all these plans have the same basis, for simplicity I will focus my remarks on the MCP proposal, its predecessor MRBA proposal and some historical understandings.

On its face, the concept of preserving water during times of drought seems to make common sense. In fact, during the two years that MARC 2000 participated in the MRBA negotiation process, navigation interests did something no other participants elected to do. We indicated a willingness to accept a reduction in service earlier than provided for in the Master Manual, as a show of good faith to this notion of "saving water" for all future users in the basin. Since water is such an important commodity during these times, we asked for some sort of compensation, such as exemption for the fuel tax paid into the Inland Waterway Trust Fund.

We also asked for a plan that met a bottom line necessary to sustain navigation into the future. If service levels were to be reduced almost immediately, then we needed a season long enough to include time at the

end to move grain to market. We made an offer to "share pain", but what we got, General, was the reduction in service, without the time we needed at the end of the season and without any support for compensation.

MCP in its current form is not an acceptable proposal because it does not "share water" during times of drought. The triggers for lower navigation service are activated so soon in the process that any water saved is not provided for downstream users in Iowa, Kansas, Nebraska, Missouri and down the Mississippi River. In times of drought, only reservoir and inter-basin transfers are provided with the use of water, but navigation and downstream recreation and power supply are not. Is this a fair allocation of water between project-authorized uses? We think not, which is why we opposed the MRBA proposal and still oppose the MCP proposal.

A review of the 100-year hydraulic records by the Missouri Department of Natural Resources reveals a consistent rise in average pool levels in the upper reservoirs, including during years of drought. Essentially, negative impacts on riparian habitat, downstream recreation, downstream navigation, downstream power supply and downstream water supply are balanced against increased upstream recreation benefits. How is this "shared pain" within the basin?

MCP is unacceptable not only to Missouri River navigation, but certainly is unacceptable to Mississippi River Navigation. Under the Current Water Controlled Plan (CWCP), there is one year of eliminated navigation service on the Missouri River and eight shortened years. That same period reveals only 7 years when these low flow regimes coincide with low water on the

Mississippi River. This is important because water flow from the Missouri can supply up to 60% of the flow in the Middle Mississippi in low water years.

We contrast that type of support with MCP, where we have 5 years of no navigation support and 35 years of shortened seasons, a 344% increase in adverse conditions. In addition, of the total 40 years of impacted service, 30 of them coincide with low water flows on the Mississippi River. Yet we are presented here today, as we have been at every public meeting, with the notion that MCP is in fact "better" for the Mississippi River than CWCP. This conclusion is absolutely false. The real world implications of eliminated support are lost in the Corps' long-held averaging game, which results in a minimization of losses.

First, the Corps knew full well that single-year events could be catastrophic and lead to significant losses. Indeed, after playing with aspects of this data in former analyses, we also learned that drought events tend to be multi-year, compounding the economic impact. Regrettably, three bad years in a row, followed by three good years, don't average out to six "no impact" years, as the Corps' data would have us believe.

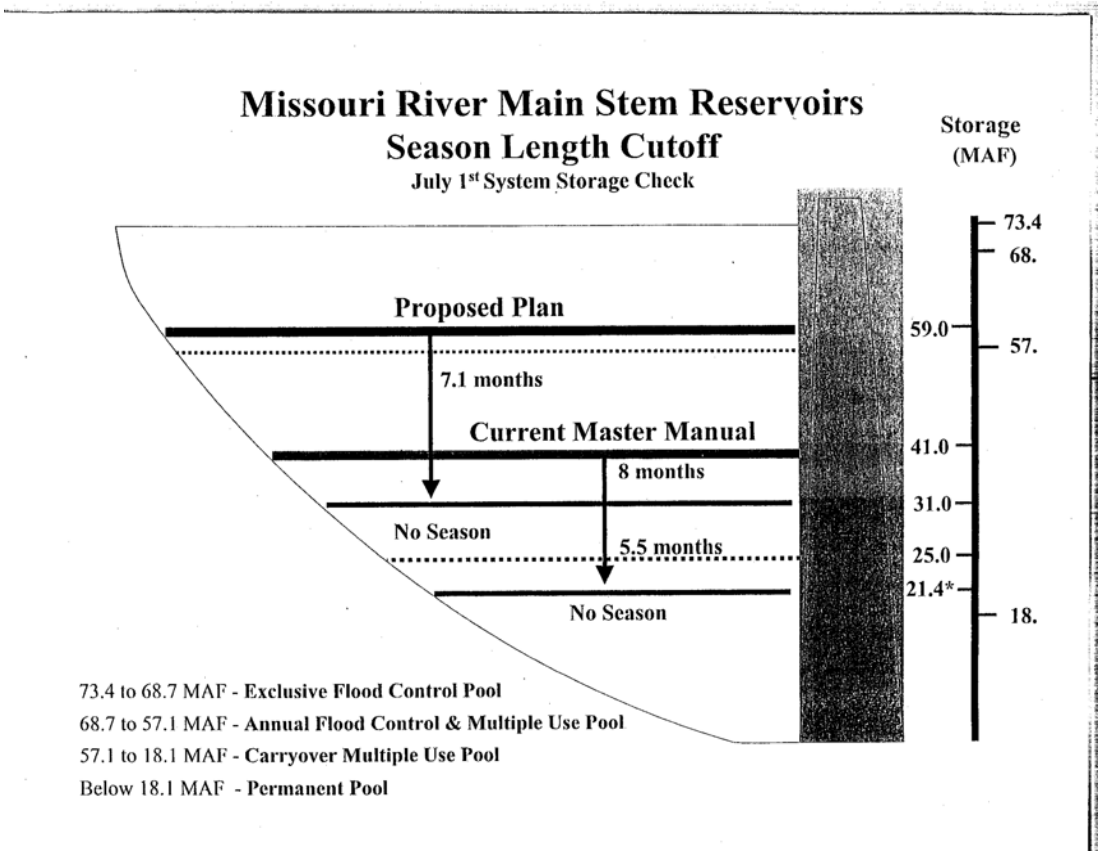
Even within the parameters of the averaging scheme employed by the Corps presentation of the data, the elimination of one year, 1939, from the mix dramatically shifts average annual impacts from positive results for MCP to significant negatives averaging $4.5 million per year in lost benefits on the Mississippi River. And, we know that this data is also suspect and incomplete.

Because the final Mississippi River Impacts analysis being conducted by the TVA will not be available prior to the conclusion of the public comment period, we asked navigation experts to conduct their own analyses.

General, we found that the loss of water support under MCP could generate average annual impacts from $7.5 million per year to as much as $30 million per year. This staggering impact has raised our opposition to the "conservation" underpinnings of MCP and the GP plans to a higher level.

But again, the real travesty is that the public is being asked to evaluate alternatives when the impact analysis is incomplete. There are real world considerations to the effects of future depletions on the Missouri River that, despite having been requested repeatedly, have not been presented to the public or factored into the plans. We have asked for depletion runs on the MCP plan during this entire comment period and have been told by the Missouri DNR that this request has been denied.

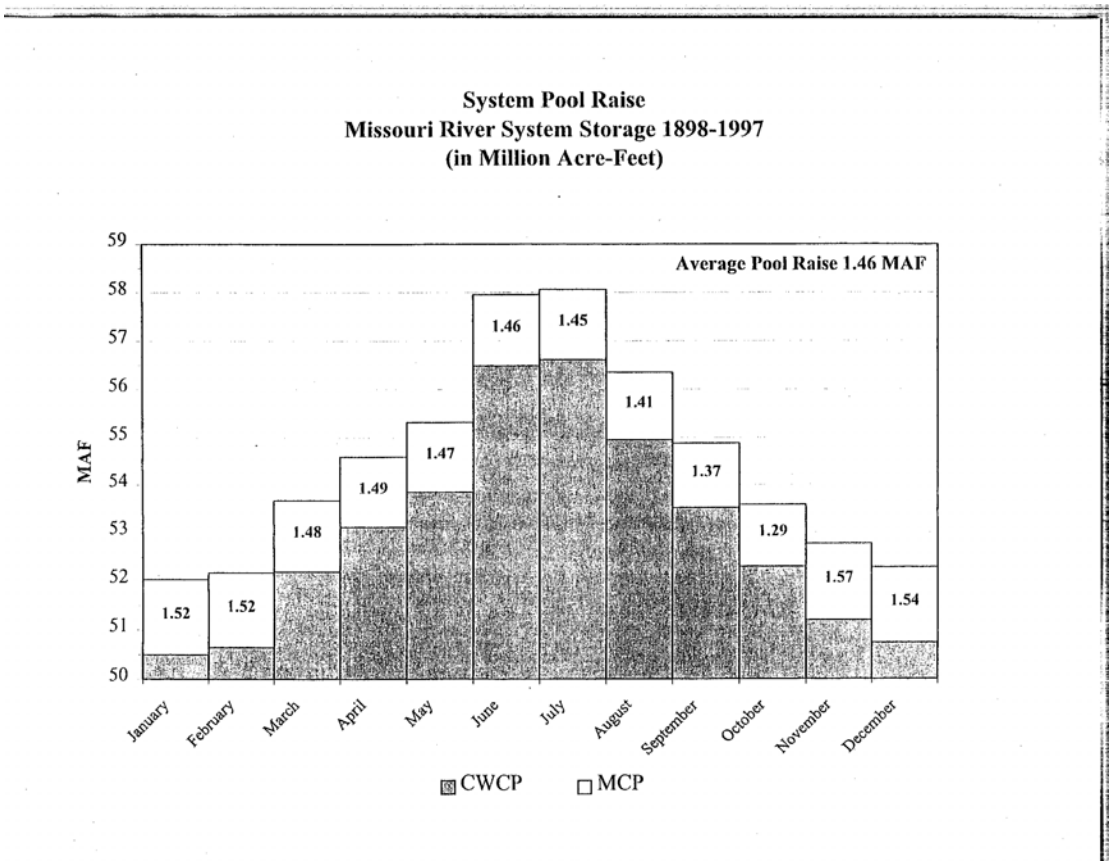
This is important because depletion runs made on other previously considered proposals demonstrate an order of magnitude that greater impacts would doom any of these alternatives in the opinions of stakeholders basinwide. Let's look at some of that data affecting navigation. Under CWCP, current depletions adversely affect over 24 months of no navigation or shortened service. A 3.2 MAF depletion would triple that impact. Under the old C31 proposal there would have been over 48 months of impact under current depletions and an impact of over 5 times under a 3.2 MAF depletion run. GP1528 reveals similar negative trends. MCP has over a 70-month



impact under current depletions, but we don't have the impact number under a 3.2 MAF depletion run. If the relationships hold true, we would expect that number be 3 to 4 to 5 times current depletion impacts, which are substantial.

MCP is not an acceptable solution, nor are its conservation assumptions. We need to get back to a more equitable distribution of water that benefits the entire basin during times of drought, not just one part of the basin. Thank you for the opportunity to address this important issue.

5


System Pool Raise
Missouri River System Storage 1898-1997
(in Million Acre-Feet)
Average Pool Raise 1.46 MAF
MAF
59
58
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54
53
52
51
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1.52
1.52
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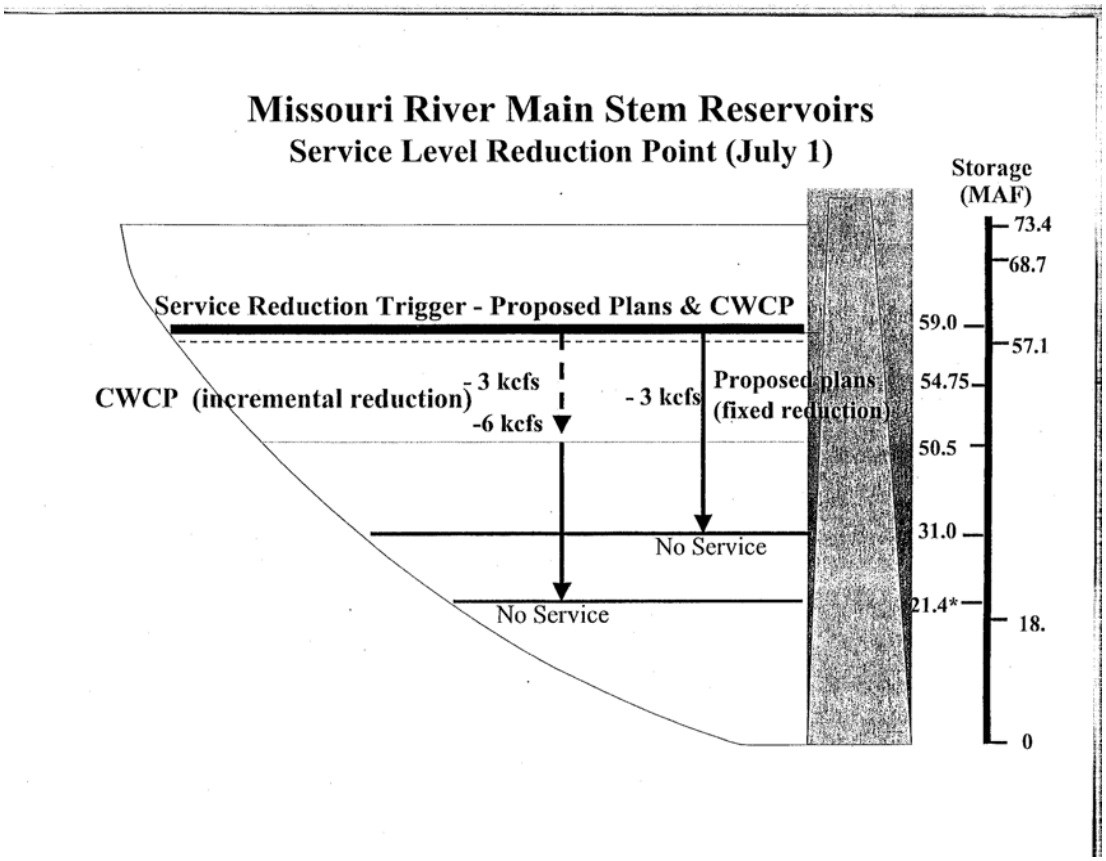
December
CWCP
MCP


Missouri River Main Stem Reservoirs
Service Level Reduction Point (July 1)
Storage
(MAF)
73.4
68.7
Service Reduction Trigger - Proposed Plans & CWCP
59.0
57.1
CWCP (incremental reduction)
- 3 kcfs
-6 kcfs
- 3 kcfs
Proposed plans
(fixed reduction)
54.75
50.5
31.0
No Service
No Service
21.4*
18.
0

Mississippi River Impacts

Plan	No nav	Shortened	Total	MR Years	MR Days
CWCP	1	8	9	7	397
MCP	5	35	40	30	1032
GP1528	6	30	36	27	874

No Nav = Number of years without support on Missouri River

Shortened = Number of years with less than 8 month support on Missouri River

MR Years = Number of years when No Nav and Shortened coincide with Mississippi River low water (Q<94.95 kcfs)

MR Days = Number of days when No Nav and Shortened coincide with Mississippi River low water (Q<94.95 kcfs)

Effects of Depletions and Alternatives on Navigation Service

Months of No Service (No Navigation + Shortened Service)

	CWCP	MCP	C31	GP1528
Current Depletions	24.39	71.39	48.66	73.80
3.2 MAF additional Depletions	76.43	???	200.75	173.24

Mississippi River
Lost Navigation Efficiency Impacts
Average Annual Costs - Shallow and Deep Draft

Without 1939

Missouri River Scenario	Cairo	St. Louis	Both Reaches	Difference From Scenario CWCP
CWCP	$ 9,903,126	$ 17,297,908	$ 27,201,035	
MCP	$ 11,846,458	$ 19,896,908	$ 31,743,366	$ 4,542,332
MR1528	$ 9,478,102	$ 17,649,895	$ 27,127,997	$ (73,038)
MR2021	$ 11,663,674	$ 18,385,625	$ 30,049,299	$ 2,848,265
MR1521	$ 11,636,518	$ 18,316,019	$ 29,952,537	$ 2,751,502
MR2028	$ 9,504,927	$ 17,695,372	$ 27,200,299	$ (735)

Mississippi River
Lost Navigation Efficiency Impacts
Average Annual Costs - Shallow and Deep Draft

Missouri River Scenario	Cairo	St. Louis	Both Reaches	Difference From Scenario CWCP
CWCP	$ 18,766,000	$ 26,503,000	$ 45,269,000	
MCP	$ 17,970,000	$ 26,041,000	$ 44,011,000	$ (1,258,000)
MR1528	$ 15,589,000	$ 23,563,000	$ 39,152,000	$ (6,117,000)
MR2021	$ 14,965,000	$ 23,013,000	$ 37,978,000	$ (7,291,000)
MR1521	$ 14,938,000	$ 22,945,000	$ 37,883,000	$ (7,386,000)
MR2028	$ 15,616,000	$ 23,607,000	$ 39,223,000	$ (6,046,000)

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515/221-1961 (phone and fax) jtorbertidda@mchsi.com

Iowa Drainage District Association

Position Statement

To: US Army Corps of Engineers
Brig. General David Fastabend

From: John T. Torbert, Executive Director

Date: February 19, 2002

Re: Missouri River Water Control Plan

Thank you for the opportunity to appear today and make comments on this very important issue. The Iowa Drainage District Association represents the interests of organized rural drainage districts in the state of Iowa. Although the bulk of our membership is in the "prairie pothole" region of northwest Iowa, we also represent drainage interests on both the Missouri and Mississippi rivers. Our membership represents more than 3,000 drainage districts in 26 Iowa Counties. In most counties, that representation occurs through the county Board of Supervisors who under state law can become the trustees for the districts. Some districts continue to be represented by individual trustees.

The IDDA is here today to support the current water control plan for the Missouri River. Many farmers that farm land along the river have invested many thousands of dollars to drain that land to increase its productivity. We are very concerned about inland drainage and the impact it has along the river and behind the levees. The Iowa Farm Bureau Federation has determined that increased river flows could result in production losses on more than 100,000 acres of land, which in turn will result in economic losses of $13 million.

A spring rise – which is included in all but one option - will not allow to planting of corn on the affected acres. Planting of that land could be pushed back to July, which can also create harvest problems if an early front occurs. We are also aware that there have been substantial concerns expressed about the impact that changes in the river's flow will have on barge traffic. The Missouri River provides about half the flow of the Mississippi River, which is a vital route for our commodities and plays a huge role in our ability to compete in the international market place. Finally, we know that Midamerican Energy has analyzed these plans to see what impact they will have on the ability to generate power. According to the Iowa Dept. of Natural Resources, 40 percent of Iowa's generating capacity comes from the Missouri River. What impact will changing the flow of the river have on our ability to generate power?

It is for these reasons that the IDDA wishes to go on record in opposition to any change in the current flow plan. We believe that this option provides a balanced approach to the environment and to the farmers along the river that earn their livelihood from the land.

1

Marty Summy
15273 Missouri Ave.
Crescent, IA 51526
Farmer along Missouri River

Thank you to the Corps for extending this comment period. It's nice not having to stop planting or harvesting to attend a meeting.

I've attended meetings and hearings since the first attempt to change the Master Manual in the early 1990's. I was opposed to any changes in operation then and still am today. I haven't seen any information in all these years to change my views. I'm even more certain after reading the Environmental Impact Statement dated August 2001 and published by the U.S. Army Corp. of Engineers. I would like to quote some of the facts found in the publication.

Under proposed New Alternatives:

- Flood control, interior drainage, and ground water losses would amount to **4.6 to 5.6 million dollars** annually. FC 48
- Loss of navigation revenue would be **1.6 to 5.9 million dollars** annually. Nav 30
- Net revenue loss to hydroelectric production of **8.2 to 29.7 million dollars** annually. HPower 18
- Although no dollar amounts were assigned, the publication states, because of higher water temperatures, "Low flows in the river may force cutbacks in power production." It also states "River flows below full navigation service could increase the potential to exceed existing state standards for recreation and aquatic uses." MoPower 1, 3

GP alternatives would increase recreation benefits by a mere 2 to 4 million dollars annually. But, I quote, "Higher recreation benefits at the upper three lakes largely account for the increase. Benefits decrease as summer flows decrease. Reduced benefits to lower river recreation largely account for the decrease." Rec 10

Regarding effects on habitat:
Cold water fish habitat would increase 6% to 7% under GP alternatives, mainly behind the dams. Warm water fish habitat would decrease 15% to 16% under the GP alternatives, mainly below the dams. Fish 18,19, 6

The Corps and USFWS agree that the Sturgeon needs 20 to 30 acres per mile of shallow water habitat. Under any of the alternatives, the most severe flow change would only provide ¼ of that. They also agree that there is no data to support definition of a spawning cue that would insure successful spawning. EnSp 2,17

Tom Mackland

There is an adage that says if a lie is repeated often enough, it will become the truth.

Other 14, 56

While the Fish and Wildlife Service, American River extremists and now six states of the Missouri River Basin Association spout their version of the findings of the National Academy of Sciences, they pick out excerpts to support their own agenda, and ignore those that do not.

The report does say the Missouri River ecosystem is in trouble and needs attention, it also says the biggest scientific challenge is in understanding how restoration activities will impact the ecosystem and that no further revisions should be made to the Master Manual until a collaborative, science-based approach can be put into place.

It should also be pointed out that the report does not support any specific proposal put forth by the corps of Engineers or the Fish and Wildlife Service, nor does it propose specific actions to restore the ecosystem of the Missouri River. In fact the report says more study and stakeholder involvement is needed to determine which actions are appropriate.

Like my father and his father before him, I have lived and farmed next to the Missouri River most of my life. I have seen the devastation caused not just by flooding, but by the loss of interior drainage systems, which permits even the smallest rainfall event to keep me out of the fields. If this so called experiment is put into place, will the Fish and Wildlife people or American River representatives open their own checkbooks to help me or my neighbors when we are losing money? I think not, they have no financial interest one way or the other.

FC 6, 8
IntD 8
GW 7

What sense does it make to put so many people and communities at risk putting into implementation a plan that at its very definition is an experiment? There is no evidence supporting the claim that a spring rise will help these endangered species, but there is plenty of evidence showing how high flows and reduced or nonexistent drainage can cost basin residents millions of dollars. I would bet that in this room alone there are people who collectively lost many thousands, if not millions of dollars in the last decade due to flooding caused by rainfall events which occurred at times when the Missouri River was carrying above average flows.

EnSp 17

Also under the GP alternatives, there would be a 2,400-acre increase in wetlands but a 4,000 to 5,000 acre loss of riparian habitat. Also, Tern and Plover habitat would increase by 140 to 160 acres and most would be between the upper dams and the short stretch between GP and Sioux City. I'd like to point out that this isn't like restoring 150 acres in the middle of Iowa, where there would be few adverse effects to those around the restoration. But, flow changes would adversely affect the entire length of the lower Missouri River.

WRH 8
EnSp 46

I feel there must be other alternatives to create Tern and Plover habitats. For many years at these meetings there was an elderly gentleman from the state of Missouri who suggested mooring barges loaded with sand be provided as nesting sites. As I remember, the USFWS thought this was laughable. But I ask, did anyone try this simple idea? If the Tern and Plover were in such peril I would think it would have been worth an attempt over these past years.

EnSp 28

In closing I urge you not to change the current master manual. I don't want to bear the increased risk and cost of this experiment. Recently the US Forestry Service has experimented with so called controlled burns and nearly destroyed Los Alamos, New Mexico.

What happens when in early May there are a couple of inches of rainwater on my farm fields that won't drain into a river higher than necessary and I need to plant? Or a river 4 feet higher than it would normally be goes out of its banks from a heavy rainfall event upstream and submerges a young corn or soybean crop? Being able to say I told you so won't help keep me in business. Those of us along the river don't want to be the Los Alamos of the Missouri.

So I respectively put this to the Corps of Engineers, gentlemen please do not bow to the pressure of agencies or groups who would have you alter the course of your mission just for the sake of being politically correct. Especially when so many alternatives exist that do not involve putting so many people and businesses at risk…..

David Fuehrer Dakota Dunes Community Improvement District.

IntD 15

We are concerned nobody has contacted Dakota Dunes to check the impact of the Missouri River spring rises on our storm water system that drains into the Missouri.

David Fuehrer
Public Works Manager
Dakota Dunes Community Improvement District
P.O. Box 1997
Dakota Dunes, SD 57049

RESOLUTION 2-2002-1
A RESOLUTION URGING THE UNITED STATES ARMY CORPS OF ENGINEERS TO RECONSIDER ITS DRAFT IMPLEMENTATION PLAN FOR THE FINAL BIOLOGICAL OPINION ON THE OPERATIONS OF THE MISSOURI RIVER MAIN STEM RESERVOIR SYSTEM AND ADDRESS IDENTIFIED PROBLEMS

WHEREAS, the United States Army Corps of Engineers has proposed to release higher than normal flows down the Missouri River in the spring and fall, and release substantially lower flows in the summer; and

WHEREAS, the proposed changes will damage property, the economy, and the recreational uses of the Missouri River in numerous communities in South Dakota, Nebraska, and Iowa downstream from Gavin's Point Dam in Yankton, South Dakota; and

Rec 6

WHEREAS, changes in the Missouri River water levels could move nearby contaminants to Sioux City and result in loss of public drinking water supplies and create a danger to public health at Dakota Dunes; and

WQ 12
WS 11

WHEREAS, valuable residential and commercial property, and farmland will be exposed to potential flooding, drainage problems and adverse groundwater conditions; and

FC 8
IntD 8
GW 7

WHEREAS, the elimination of navigation on the Missouri River would shift transportation to rail and trucks, resulting in higher transportation costs and straining the ground transportation infrastructure; and

Nav 12, 23

WHEREAS, reduced summer flows jeopardize electric power supply during peak usage months; and

HPower 18
WAPA 3

WHEREAS, vaguely defined adaptive management plans could circumvent opportunities for public review and input regarding river management plans.

Other 10

NOW, THEREFORE, BE IT RESOLVED, by the Board of Supervisors of Dakota Dunes Community Improvement District, that the United States Corps of Engineers be urged to reconsider and address and solve the aforementioned problems before implementing the proposed changes in the Draft Implementation Plan.

Date adopted: February 18, 2002.

Alden Bailey, Chairman, Board of Supervisors

ATTEST:

Kim Hoffman, District Secretary

LAFARGE NORTH AMERICA

My name is Kyle Harrison, and I am representing Lafarge North America this evening, a worldwide leader in construction materials. I'm the manager of the Omaha cement terminal. Lafarge is strongly committed to providing high quality products and safeguarding our environment. River transportation has been a vital link in our supply chain and the most efficient, environmentally friendly form of transportation that we can employ in our Midwest and West Central Regions.

Lafarge North America operates a cement manufacturing facility at Sugar Creek, Missouri. From our plant we have barged cement upstream to Omaha for almost 36 years. The river has been a vital supply line for us. We are currently increasing the production capacity of our Sugar Creek plant from approximately 500,000 tons annually to over 900,000 tons in order to meet the strong consumer demand for Portland Cement in the Kansas City and Omaha areas. We need to get our products to Omaha, and river transportation is the best way to do it. Our manufacturing processes also require a variety of bulk raw materials and fuel: clay, slag, clinker, gypsum, and coal, to name a few. Lafarge currently transports approximately 350,000 tons of raw materials into our plant at Sugar Creek, and would like to increase this amount. These materials are transported by barge in an efficient and environmentally friendly manner. River transit also serves to keep rail and truck transportation rates more competitive, and that is good for everybody.

Nav 49

Lafarge North America has recently invested over $300,000.00 in the barges used to transport cement to Omaha. Lafarge North America would like to invest more capital funds in the barges, unloading and loading facilities located along the Missouri River. The Army Corps of Engineers activities directly impacts these types of capital expenditures. It is extremely difficult to justify, and to commit capital dollars to a supply chain that has a questionable future.

Utilizing the current Master Water Control Manual allows for suitable time in the navigation season to ship enough tons of cement to meet the consumer demand. Barging materials is the most cost-effective way to move products. The number of miles one ton can be carried per gallon of fuel is 514 miles for barges, 59 miles for trucks and 202 miles by rail car. It takes approximately 160 trucks or 40 rail cars to move the tonnage that we get on just two barges. Trucking equal amounts of material consumes 3 to 4 times more fuel then if barged. Railing material consumes twice as much fuel. The cost savings from using the navigable waterways are passed on to the public through lower cost products used to build our cities and towns' infrastructures, allowing for safer roads and bridges at a lower cost for taxpayers. What's better for America? More trucks congesting roads, airborne emissions, and consuming more fuels?

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