

**FIELD HEARING IN MISSOURI: MISSOURI RIVER
MANAGEMENT: DOES IT MEET THE NEEDS
OF SMALL BUSINESS?**

HEARING
BEFORE THE
COMMITTEE ON SMALL BUSINESS
UNITED STATES
HOUSE OF REPRESENTATIVES
ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

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CONTENTS

OPENING STATEMENTS

Hon. Sam Graves	Page 1
-----------------------	-----------

WITNESSES

Kathy Kunkel, Clerk, Holt County, Oregon, MO	3
Lanny Frakes, Owner, L & R Farms, Rushville, MO	5
Jody Farhat, Chief, Missouri River Management Division, Northwestern Division, United States Army Corps of Engineers, Omaha, NE	7
Jason Gregory, Owner, Gregory Farm, Hemple, MO	9
Joel Euler, Attorney, South Side Levee District, Troy, KS	11

APPENDIX

Prepared Statements:	
Kathy Kunkel, Clerk, Holt County, Oregon, MO	31
Lanny Frakes, Owner, L & R Farms, Rushville, MO	34
Jody Farhat, Chief, Missouri River Management Division, Northwestern Division, United States Army Corps of Engineers, Omaha, NE	37
Jason Gregory, Owner, Gregory Farm, Hemple, MO	41
Joel Euler, Attorney, South Side Levee District, Troy, KS	44
Questions for the Record:	
None.	
Answers for the Record:	
None.	
Additional Material for the Record:	
None.	

MISSOURI RIVER MANAGEMENT: DOES IT MEET THE NEEDS OF SMALL BUSINESS?

WEDNESDAY, AUGUST 21, 2013

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
Washington, DC.

The Committee met, pursuant to call, at 10:16 a.m., in St. Joseph City Hall, 1100 Frederick Avenue, St. Joseph, Missouri, Hon. Sam Graves [chairman of the Committee] presiding.

Present: Representative Graves.

Chairman GRAVES. I would like to thank everyone for being here today, particularly to our witnesses. We are obviously going to discuss the implications of the Missouri River management and how that affects small businesses.

This is an official field hearing with the Small Business Committee, and as Chairman of the House Small Business Committee I do encourage field hearings throughout the United States with our members, because it does allow members to get outside of that bubble we call 17 square miles of logic-free environment, which is Washington, D.C., and they get a chance to hear the real concerns of small businesses and how they operate in the real economy.

From the beginning of the late 19th century, the Federal Government has taken an interest in developing our nation's waterways in order to maximize the economic benefits of these resources to the United States. The original federally authorized purpose of the Missouri River System was to facilitate navigation or navigable waters for interstate commerce. Later, flood prevention, water supply, irrigation and hydropower were added to the mix, again for the purposes of maximizing the economic benefits of the river.

Unfortunately, managing the river for economic benefit has become less important than facilitating other objectives of little or dubious economic value.

Today, the lower Missouri River is often closed to commercial navigation, reducing the opportunities for small businesses to find the most cost-effective means for shipping their goods. In addition, Corps programs to create shallow-water habitat for fish, the pallid sturgeon in particular, and the proposed Spring Pulse, could undermine the goal of flood prevention.

Some claim that these are unavoidable tradeoffs between balancing the potential economic benefits of the Missouri River System with the goal of protecting the environment. I believe that such thinking misses the point. Limiting the economic utility of the river system based on dubious science doesn't promote any objective.

What small business and rural community stakeholders need is for management decisions to be based on accurate scientific and engineering data. Unfortunately, all too often, decisions with significant system-wide impacts appear to be based on a whim. This reduces certainty and makes it difficult for small businesses that rely on the Missouri River System for their economic well-being to plan accordingly.

Before I yield for our opening statements, I would like to acknowledge the presence of the U.S. Army Corps of Engineers, which are here. The Committee invited both the Corps and the Fish and Wildlife Service to attend, but as we can see, only the Corps decided to testify.

This is unfortunate for many reasons, none more so than the fact that many of the regulations that complicate multipurpose management of the Missouri River System originate or are influenced by policies that are pursued by the Fish and Wildlife Service. I think their absence speaks volumes about their lack of concern for small businesses and the rural communities that the river affects.

With that, I look forward to hearing from all of our witnesses.

I would also like to kind of explain the way the light system works. The way we do it is each person has 5 minutes to give their opening statement, and when you get down to 1 minute it turns yellow. The fact of the matter is, if you have something to say, I want to hear it, so don't worry too much about getting thrown out of the room if you go over your 5 minutes because it is not going to happen. This is about hearing what folks have to say and about managing the river, and that is what the importance of this is. So we have to do it for Committee rules, so we have to have the lights. But regardless, I want you to say it if you have anything to say.

So with that, we will start out with introductions. What we will do is I will introduce each of our witnesses and they can give their opening statement, and then we will move to the next one, and then we will go on to questions.

But our first witness today is Ms. Kathy Kunkel from Oregon, Missouri. Kathy currently serves as the Clerk of Holt County. Among her responsibilities and goals is promoting economic development in the county, especially small business development. She has also worked with other rural communities in discussing the impacts of Missouri River management in the communities and economic development efforts.

Ms. Kunkel, again, thank you for appearing today, as you have before, and we look forward to your testimony.

STATEMENTS OF KATHY KUNKEL, CLERK, HOLT COUNTY, OREGON, MISSOURI; LANNY FRAKES, OWNER, L&R FARMS, RUSHVILLE, MISSOURI; JODY FARHAT, CHIEF, MISSOURI BASIN WATER MANAGEMENT DIVISION, NORTHWESTERN DIVISION, UNITED STATES ARMY CORPS OF ENGINEERS, OMAHA, NEBRASKA; JASON GREGORY, OWNER, GREGORY FARMS, HEMPLE, MISSOURI; JOEL EULER, ATTORNEY, SOUTH SIDE LEVEE DISTRICT, TROY, KANSAS

STATEMENT OF KATHY KUNKEL

Ms. KUNKEL. Thank you, Mr. Chairman. I appreciate the opportunity to come before the Committee today and be able to provide for you, once again, a voice for the citizens of Holt County, Missouri, as well as other rural communities that are impacted by the Missouri River's management in our region. So I will take a couple of minutes to provide my testimony.

I have the privilege to come before this body representing the people of Holt County, Missouri. I am honored to share with you the concerns of small businessmen and women who take great pride in operating their farms and businesses in a rural area.

Situated between the urban hubs of Omaha and Kansas City, Holt County is about as rural as it gets. Less than 4,700 people call Holt County home. There are 500 miles of gravel roads and not one single stop light or flashing light in the entire county, including the towns. Everyone knows one another. It is small-town America at its best. Our small businesses range from local grocery stores to a 30-million-gallon ethanol plant. Each and every business in our area is dependent on the well-being of agriculture.

Holt County has a wide floodplain, encompassing about 40 percent of the county's 456 square miles. It holds highly productive farmland and five towns. At its widest point our floodplain stretches 12 miles from bluff to bluff. It is criss-crossed by transportation corridors connecting Missouri with Iowa, Kansas, and Nebraska by interstate and rail. It also is home to Squaw Creek National Wildlife Refuge and Big Lake State Park, as well as a patchwork of farmland and homesteads dating back to early settlement.

The 2011 flood brought a focused spotlight to the management practices of the United States Army Corps of Engineers and their responsibilities to the eight authorized purposes of the Missouri River. Holt County was devastated by the flooding that found water within our homes for up to 106 days. Interstate 29 was closed for nearly four months, and in that time, small businesses that sat well outside of the floodplain were closed due to a lack of commerce. You simply cannot run a truck stop without interstate traffic. In one day, 40 people from Holt County lost their jobs due to flooding on one of the highest hills in the county, miles from the floodwaters.

County tax revenues are based on the economic viability of the communities within the county boundaries. Commercial and agricultural properties make up the real estate tax base. Those businesses provide income for housing. Retail sales of goods provide sales tax to support the county's services such as law enforcement and road maintenance. Closed businesses and lost crop production diminish sales tax returns, and county services suffer.

The loss of Big Lake State Park ended tourist and vacation revenues, as well. In 2011, over \$100 million worth of corn and soybeans were lost in Holt County. The lingering effects are seen from the car dealership to the grocery store as citizens have fewer dollars available for large and small purchases. County sales tax revenue continues to show a downturn even in 2013, currently posting a 6 percent deficit.

After the 2011 flood, the U.S. Census Bureau estimated that the number of people living in Holt County had shrunk by nearly 300 citizens, now tallying 4,655. For our county, that is an exodus. Small businesses simply cannot survive in an atmosphere where the population is declining at a rapid rate, which in this case was 5.2 percent in a two-year period.

As the population declines and farmlands are ruined by repetitive flooding, the Corps of Engineers continues to pursue purchasing land in Holt County for mitigation efforts designed to widen the river, create shallow-water habitat, and erode existing stabilized banks. Acquired land is then removed from the tax rolls, and the land is removed from agricultural production, further impacting the local economy and dollar turnover that occurs within the county.

The Corps' water flow strategy has changed so significantly that recurrent flooding is commonplace in our area now. The Corps' focus has clearly shifted from a traditional flood control and navigation focus, which we saw for years after the bank stabilization and navigation project, to one of now an environmental experiment, totally unproven and now proven to be ineffective, while it has undermined agriculture in our communities and devastated small businesses.

In Holt County, we have come together to explore what alternatives might be available to our citizens to once again bring our county to be a thriving place to live, work, and do business. The county's levee and drainage districts have been rebuilt using new designs providing protection for the land, homes, and businesses within their watershed areas. Partnerships have been formed between the varying districts to provide greater protection in times of high water. The county utilizes the National Flood Insurance Program to ensure that homes are built above the base flood elevation to limit flood damage. Numerous projects have been implemented, both publicly and privately, to increase the height of the railroad, roadways, and other essential infrastructure in an effort to avoid or limit future damages.

A regional partnership is underway to provide strategic planning with the states of Missouri, Nebraska, Kansas, and the Iowa Tribe of Kansas and Nebraska situated at White Cloud, to plan for Missouri River management and small business needs for navigation, port access, railway connectivity, and interstate commerce.

It is essential that the United States Army Corps of Engineers manage the Missouri River for flood control and navigation interests to allow for small businesses in our region to be able to survive. With the opening of the Panama Canal, our region is now ready to provide bulk grain and other products by barge to markets of the world. A United States Department of Transportation Marine Highway Designation, M-29, is crucial to establishing this re-

gion as a waterway transportation route. The Corps must provide a reliable level for navigation, which is necessary to minimize risk and make small businesses successful. A minimal risk of flooding is imperative for business expansion, crop production, and tourism.

I appreciate your willingness to hear the voice of rural America's citizens today. I would encourage you to define the future of the Missouri River Basin with a focus on the 2011 flood's lasting impacts on the agricultural community and small businesses of the lower Missouri River. Change in the management practices for the Missouri River Basin must come now, and with it must be a renewed focus on the people utilizing the bounty of the floodplain with a specific focus on flood control and navigation. Thank you.

Chairman GRAVES. Thanks, Ms. Kunkel.

Our next witness is Lanny Frakes. Mr. Frakes serves as the Vice President of the Missouri Levee and Drainage District Association, a statewide organization that helps represent landowners, small businesses and rural counties in issues involving the Missouri River management.

Mr. Frakes, I want to thank you for coming in and I appreciate your testimony, look forward to hearing from you.

STATEMENT OF LANNY FRAKES

Mr. FRAKES. Thank you. Chairman Graves and members of the United States House Committee on Small Business, thank you for this opportunity to provide testimony regarding management of the Missouri River and the needs of small businesses. As Vice President of the Missouri Levee and Drainage District Association, I represent levee and drainage districts, businesses, associations, and individuals interested in the activities and issues surrounding the Missouri River and its tributaries. I understand the importance of this Committee's work as it relates to the protection of small businesses across our country. I am honored to have this opportunity to provide comments on behalf of the levee association's membership and fellow Missourians who are impacted by the operation of the Missouri River.

The bottomlands along the Missouri River include thousands of acres of highly productive farmland. Many family farm businesses rely on levees constructed by landowners, levee districts, and the U.S. Army Corps of Engineers for protection from flooding. One hundred thousand acres of Missouri bottomland soil can produce enough calories to feed over 1 million people for an entire year. This productive soil makes up the backbone of the local economy. As the bottomland farms succeed, so does the local economy. There are spillover impacts from the success of the farm businesses. Many small businesses benefit from the production and operation of bottomland farms. The purchases of tractors, trucks, and other machinery, along with labor and other inputs, have ripple effects throughout our economy.

I want to be very clear: it is the productive soils and the land that provides the foundation for small business growth and success throughout our agricultural communities. Without the highly productive soil and land, the small businesses in the fruitful Missouri River bottoms would be far less successful. We have seen dramatic increases in farmland values over the past several years. According

to the Federal Reserve Bank of Kansas City, first quarter farmland values in the Kansas City District have posted double-digit annual gains for three straight years. While the general economy has struggled, agriculture and small businesses tied to agriculture have held their own. Agriculture will likely be the industry leading our country out of its economic woes. It has held true in the past. This is why it is vitally important to keep our best soils in production, and this is why we should protect these soils from flooding.

Flood control is vitally important to these businesses. Small businesses in the economic chain, from the farmer to the small businesses he impacts, rely on the U.S. Army Corps of Engineers to provide critical flood control along the Missouri River. Flooding has huge impacts on small businesses and the economy. Because floods are so devastating, flood control is one of the greatest needs for communities and small businesses impacted by Missouri River operations.

Unfortunately, the U.S. Army Corps of Engineers no longer seems to share the same belief concerning the importance of flood control for the small businesses impacted by their operations. In fact, we rarely even hear the Corps talk about flood control. The term “flood control” has all but been stripped from their vocabulary. Instead of flood control, we now hear the Corps talk about flood risk reduction. The Corps of Engineers is working hard on programs designed to reduce the Federal Government’s risk and responsibility associated with flooding and flood recovery. But there is very little focus on actually reducing the risk of flooding.

The Corps’ new approach to flood control has little to do with keeping the River between its banks. Their emphasis is on moving people and businesses out of the floodplain, buying productive farmland, setting back or removing levees, and allowing the river to run wild. This is not an approach to flood control. It is a recipe for disaster.

We understand floods will happen, and we cannot control every flood. But the goal should be to keep the river between its banks and control flooding as much as possible. Even if we were able to remove all infrastructure from the floodplains—homes, businesses, roads, power lines, pipelines, bridges and more—the remaining farmland is worth protecting with levees and other flood control projects.

Members of the Missouri Levee and Drainage District Association have many concerns regarding the Corps’ operation of the river. Shallow-water habitat projects, dike notching, the threat of a manmade spring rise each year and land acquisition programs top the list of our concerns. The Corps’ levee inspection program and the FEMA levee certification program also concern our members and will have impacts on small business and the ability to provide proper flood control.

Finally, it is our hope your Committee and the United States Congress will provide better oversight of the Corps of Engineer’s activities. Federal agencies with no oversight from Congress have a long leash and a high level of arrogance. This has been the case with the ongoing shallow-water habitat projects. Even though the Missouri Clean Water Commission decided not to provide a 401 certificate, the Corps of Engineers has decided to dump dredged

spoils from their projects directly into the Missouri River. We believe this shows a great lack of respect to the Missouri Clean Water Commission and the stakeholders who overwhelmingly opposed the soil dumping.

The work of your Committee is very important. I appreciate your service to our nation and your willingness to hold this hearing here today. I hope you will encourage the Corps of Engineers to make flood control their number one priority and provide the protection the small businesses need to grow and prosper.

The land and productive soils along the Missouri River is one of our country's greatest assets. Providing flood control to the land is critical to small businesses throughout the Missouri River Valley and the nation. The Missouri Levee and Drainage District Association is ready and willing to help you as we work together to protect our small businesses and grow our economy, and I thank you.

Chairman GRAVES. Thanks, Mr. Frakes.

Our next witness is Jody Farhat. Since 2009, Ms. Farhat has served as the Chief of the Missouri River Management Division of the Army Corps of Engineers, the Northwestern Division. Prior to her elevation to chief, Ms. Farhat served for 5 years in the Hydrologic Engineering Branch of the Corps' Omaha District, which is where I think I first became acquainted with you or we first got acquainted.

Ms. Farhat, again, thank you for being here today. We appreciate it very much, and the Corps, for coming in today, and we look forward to your testimony.

STATEMENT OF JODY FARHAT

Ms. FARHAT. Thank you very much, Chairman. As you said, I am Jody Farhat. I am Chief of the Missouri River Basin Water Management Office, part of the Northwestern Division of the U.S. Army Corps of Engineers. I am pleased to be here today to discuss our roles and responsibilities, and efforts on managing the Missouri River Mainstem Reservoir System, and on the importance of the river to small businesses and rural communities.

Over the past several years, the Missouri River Basin has experienced a wide range of climatic conditions, from the record runoff in the upper basin in 2011, to flash drought in 2012. The Mainstem Reservoir System is comprised of six dam and reservoir projects; hydroelectric power plants; levees, both Federal and non-Federal; and a 735-mile navigation channel extending from Sioux City, Iowa to the mouth near St. Louis, Missouri. The Corps is charged with responsibly managing this complex system for eight authorized purposes: flood control, navigation, irrigation, hydropower, water quality control, water supply, recreation, and fish and wildlife enhancement. In addition, the operation of the system must also comply with other applicable Federal statutory and regulatory requirements, including the Endangered Species Act.

Cycles of flooding and severe drought have always been a major part of basin hydrology. The reservoirs are designed to capture and store runoff from the upper basin in the spring of the year, providing flood protection for over 2 million acres of land in the floodplain. Water stored in the reservoirs is then utilized during the remainder of the year to serve the other seven authorized purposes.

The Bank Stabilization and Navigation Project along the lower Missouri River keeps the channel from meandering and makes it more reliable for navigation, and an extensive system of levees from Omaha to St. Louis provides a measure of flood risk reduction to the adjoining developed land and nearby structures.

The Missouri River Master Manual is the guide used by the Corps to regulate the six dams on the mainstem of the Missouri River. The Master Manual was revised in March 2004 to include more stringent drought conservation measures, and again in 2006 to include technical criteria for a spring pulse from Gavin's Point Dam for the benefit of the endangered pallid sturgeon. Neither the 2004 nor the 2006 revisions to the Master Manual changed the volume of storage in the reservoir system reserved for flood risk reduction or the manner in which that storage is regulated.

The construction and operation of the six mainstem reservoirs and other features of the system, along with the presence of Federal and non-Federal levees, reduced the extent of the natural floodplain and altered its ecosystem. Current regulation of the system in accordance with the Master Manual to serve authorized project purposes is dependent on the successful implementation of the U.S. Fish and Wildlife Service's 2003 Amended Biological Opinion, or BiOp.

Implementation of the BiOp is accomplished through the Missouri River Recovery Program, which includes the following elements: habitat construction, including emergent sandbar habitat and shallow-water habitat; flow modifications; propagation and hatchery support; research, monitoring and evaluation; and adaptive management. Stakeholder participation in the recovery program is essential in order to ensure that public values are incorporated into the decision process. To that end, the Missouri River Recovery Implementation Committee has been established in accordance with Section 5018 of WRDA 2007 and is comprised of a diverse group of advisory stakeholders.

The Corps also considers input from affected interests and other agencies when making water management decisions to best serve the authorized purposes. An annual operating plan, or AOP, is developed each year based on the water control criteria contained in the Master Manual. Following the release of the draft AOP each fall, public meetings are held throughout the basin to review the plan, take comments, and answer questions. After taking into consideration comments received on the draft, the final is released, generally in December.

Communication with affected stakeholders continues throughout the year via press releases, monthly basin update calls, information sharing through our website, and meetings with various stakeholders and interest groups.

The Corps strongly supports small businesses in the work we do on the river, both for repair and maintenance of the Corps facilities, including the work that was done following the record 2011 flood, and construction activities required by the recovery program. For example, maintenance work and repair of the Bank Stabilization and Navigation Project is often contracted out to local small businesses. Even when the Corps does this work in-house using our hired labor crews, a mix of large and small businesses are still

needed to provide material, equipment, and fuel. Because the greatest portion of this work and our offices are in rural areas, small businesses benefit. Completed and ongoing projects within the Missouri River Levee System have also been awarded to small businesses.

And in addition, as we develop recovery projects, we coordinate with local land owners and levee districts upstream, downstream, and on the opposite bank from the proposed project to ensure we understand their concerns and requirements. It is important to note that the recovery projects are designed and constructed to be consistent with other uses of the river such as navigation and flood control. Many of these projects are built by small businesses.

We remain committed to operating the Mainstem System to serve the authorized project purposes in a way that balances the competing needs of the basin and to meeting our responsibilities under the law. We will continue to work closely with you and all the basin stakeholders in that effort.

We appreciate the opportunity to be here today and look forward to hearing the testimony of the small business leaders and any ideas they have to improve our service to the basin.

Mr. Chairman, this concludes my testimony. I would be pleased to answer any questions.

Chairman GRAVES. Thank you, Ms. Farhat.

Next I would like to introduce Mr. Jason Gregory. Mr. Gregory is a fourth-generation farmer from Northwest Missouri, and his operation consists of row crops and some feeder cattle. He is testifying today on behalf of the Missouri Farm Bureau.

Mr. Gregory, thanks for being here.

STATEMENT OF JASON GREGORY

Mr. GREGORY. Good morning, Mr. Chairman. Thank you for holding this field hearing.

Like you said, I am here on behalf of the Missouri Farm Bureau Federation. I serve on the Buchanan County Farm Bureau Board of Directors, and my wife Beth and I serve on the state organization's Young Farmers and Ranchers Committee.

It comes as no surprise to you that the management of the Missouri River is both complex and controversial. Widespread agreement is elusive as the U.S. Army Corps of Engineers attempts to manage for eight diverse congressionally authorized purposes.

As you know, this area was hit hard by flooding in 2011 and is extremely dry as we speak. To be honest, I am not sure what a normal year is anymore.

My comments will touch on six important topics to those who not only live along the Missouri River but are protected by the system of levees constructed over the past several decades.

My first point is that the Water Resources Development Act, or WRDA, is critical to the future of our inland waterway system. Agricultural exports remain a bright spot, and it is important that we remain competitive in world markets. Other nations understand the concept of competitive advantage and are moving quickly to upgrade their ports and waterways. We need to modernize our locks and dams and provide shippers with assurances that the naviga-

tion channels on the Mississippi, Missouri, and other rivers are reliable. Congress needs to pass WRDA this year.

Secondly, there must be adequate annual funding for the Bank Stabilization and Navigation Program. The Missouri River is highly engineered and thus requires ongoing maintenance. Flood control remains paramount, and Congress must appropriate sufficient funding to ensure the integrity of Federal and non-Federal levees, flood gates, revetments, dikes and other structures. Levees not only protect highly productive crop land but also homes, businesses, and critical infrastructure such as roads, bridges, railroad tracks, sewage treatment facilities, water wells, and power plants.

My third point is that common sense must prevail in the Missouri River Recovery Program. Stakeholders from throughout the Missouri River Basin are working with Federal and state agencies to address management challenges. Dialogue is useful but doesn't erase agendas. We will always fight the efforts of those who ignore the importance of protecting infrastructure by seeking to return the Missouri River to a perceived natural state of an era long gone. This includes objecting to taxpayer dollars being spent on unnecessary projects such as the Missouri River Ecosystem Restoration Plan and the Missouri River Authorized Purposes Study. We applaud your efforts and others, including Congressman Luetkemeyer, to defund these programs.

My next point is the spring pulse should be permanently shelved. Scientific studies have failed to prove the benefit of these man-made spring rises, and there is no reason to experiment with flow modification.

Fifth, the Congress should prevent soil dumping in conjunction with the creation of shallow-water habitat. Although not convinced of the scientific benefits of constructing chutes along the Missouri River under any circumstances, it makes no sense to pump mechanically excavated soil directly into the Missouri River. This ignores best management practices, contradicts enforcement actions taken by EPA and the Missouri Department of Natural Resources, and it creates a nutrient-rich sediment flowing to the Gulf of Mexico. We support Congressman King's efforts to prevent further soil dumping and are pleased his amendment was adopted by the House in its version of the Fiscal Year 2014 Energy and Water Appropriations Act.

Finally, the Endangered Species Act, or ESA, should be improved to better reflect the human and economic impacts of listing decisions. The ESA is too rigid and relies on regulation to protect imperiled species. Landowners and other affected parties should be viewed not as the source of the problem but as a part of the solution.

In conclusion, we don't need more experiments, mosquitoes, or publicly-owned land in the Missouri River Basin. We must minimize the effects of weather extremes by protecting lives and infrastructure, make wise investments in the BSNP and the inland waterway system, and manage flows for human needs; and, where possible, enhancement of fish and wildlife habitat.

I would like to thank you for the opportunity to speak with you today and would be happy to try to answer any questions you may have. Thank you.

Chairman GRAVES. Thank you, Mr. Gregory. I appreciate it.

Our final witness is Mr. Joel Euler, who is an attorney and represents the Southside Levee District here in St. Joe. In addition to the Southside Levee District, Mr. Euler represents other predominantly rural levee districts in Missouri and in Kansas.

Mr. Euler, thank you for being here, appreciate you coming in and looking forward to your testimony.

STATEMENT OF JOEL EULER

Mr. EULER. My pleasure.

Greetings. My name is Joel Euler, and I am an attorney with an office located in Troy, Kansas. That is approximately 10 miles west of St. Joseph. I am here before you today as an attorney for the South St. Joseph Drainage and Levee District, which is one of several districts I represent along the Missouri River. This district is located adjacent to the Missouri River, south of United States Highway 36, on the western edge of the City of St. Joseph and in Buchanan County, Missouri. The district was established more than 40 years ago and protects agricultural, residential, recreational, commercial and industrial properties.

The district is operated by a five-member Board of Directors who are elected officials who own real estate within the confines of the district. The makeup of the Board of Directors includes both individual and corporate representatives. The district is responsible for the maintenance and operation of the levee and drainage structures in the district and, as such, plays a pivotal role in the protection of the various entities behind the structure. In 2011, invested capital in the district totaled in excess of \$2 billion.

In about 1998, the Corps of Engineers made a review of the levee structure in the district and determined that modifications were needed to allow the structure to maintain its protective capability. Since that time, the district and other local units of government have been working with the Corps to finalize the modifications to be made. However, progress is severely hampered because the Corps of Engineers is unable to regularly obtain the funding necessary to complete the design phase of the project and move the same into construction. At present, it is my understanding that funds have not been allocated for this project in the upcoming budget.

I understand that the purpose of this hearing is to take input with regard to the authorized purposes that the Corps of Engineers uses to manage the Missouri River System and discuss which purposes the district believes is most important. Unequivocally, the district considers the most important purpose to be flood control. Improper flood control has a negative impact on every activity conducted behind the structure. The individual who lives behind the structure must maintain a constant vigil during times of flooding and high water to ensure that his home and property are safe. This worry is in addition to the everyday stresses which an individual faces and often takes a heavy toll both financially and emotionally on citizens.

The farmer who lives and works the ground behind the structure is negatively affected when releases of water are sustained for long periods. This causes saturation to the farm ground, and during

those times when the river level is so high that the floodgates must be closed causes ponding of water behind the structure which destroys crops and makes farming operations difficult, if not impossible.

To the industrial and commercial businesses behind the structure, the financial costs associated with continued high water take a different form. Each time there is an extended high water event or the threat of flooding, the business must modify its operation to allow for potential evacuation and must make preparations in the event of flooding. Preparations include changing production schedules, removing raw materials and products and equipment from the facility, and all activities of a similar nature. In some instances during sustained high water events, flood fighting operations restrict traffic and rail flow, causing a shortage of raw materials which cost not only production but profit for the company.

In addition, the condition of the levee and continued flood threats take a toll on businesses in the form of increased costs associated with flood fight preparation, flood and business loss insurance, and other expenses associated with a potential flood event. While the event may never occur, good business practice requires planning for the event.

Potential business concerns about the operation of the levee structure and the Missouri River System as a whole can be a major consideration when determining whether or not to locate within the district. While some companies might choose to try to erect structures at a level where they will not be affected by high water should the levee breach, this is cost prohibitive in most instances and, as such, creates a negative impact on business.

In essence, if continued high water events—floods—they will act to chill the interest in locating within the district and, as everyone is aware, competition for business is already keen and communities cannot stand any negatives with regard to their industrial areas.

With regard to the smallest businesses, the mom and pops, these businesses are almost completely dependent on the work that is derived from supporting the larger industry. The businesses are often specialized, and once the larger business leaves, the small ones have no customers to serve and, as such, must close as well.

In closing, the district believes that unless flood control is made the primary emphasis of the operation of the Missouri River System, at some point flooding and high water events will occur with such frequency and have such an impact on businesses of all sizes that the real estate located behind the structure will no longer be a viable location for businesses, thus causing a negative impact on the community.

I am happy to answer any questions that you might have.

Chairman GRAVES. I thank all of you for coming in.

We will just jump right in. Most of my questions are actually panel-wide, and if I ask a question specifically to somebody and you have something to say, please jump in.

But my first question is pretty general, and I am going to start with Ms. Farhat. Are we asking the Corps to do too much? You have eight priorities that you are juggling and trying to figure out how you prioritize each of those specific tasks you have to manage

the river with. I mean, are we asking too much? Should we legislatively prioritize those for you? Because, obviously, some of them have more economic impact than others when it comes to managing the river.

Ms. FARHAT. The system was authorized for those eight project purposes, and many times they can be in conflict with each other. For example, flood control requires empty space in the reservoirs. All of the other project purposes require us to either hold the water in the reservoirs or release it for downstream use.

But I think that the reservoir system, if you look at its historic operation up through today, continues to function as it was designed. It provides tremendous benefit to the space in all of those areas, and each and every one of the authorized purposes benefits tremendously from the operation of the reservoir system.

So I think it is a manageable system. It isn't designed to maximize benefits for any one of those purposes. It is to provide service to all eight.

Chairman GRAVES. Anybody else? Ms. Kunkel?

Ms. KUNKEL. Chairman Graves, I certainly feel strongly that we are asking the Corps to do too much. I do not believe, as I travel on the river in a small fishing boat and look at eroded banks, notched dike lines and structures that have been put in place within my county, within the levee district that my family farms, that I can see that we are not taking benefit from the flood protection of that levee system that is protecting the agricultural and business communities behind it in an effort to meet an obligation of the Biological Opinion to provide shallow-water habitat and to widen the top water surface and slow the channel.

All of those functions to meet the BiOp are creating a situation that threatens the flood control structure that has been there and afforded those businesses, homes and families to believe that they had the protection that they needed to develop that basin.

And what I am seeing today behind a dike notching and a shallow-water habitat is a low, warm-water pool of Asian carp, not pallid sturgeon, and it is time that we stopped this, dredged the channel, fixed the banks, and go back to moving boats on barges up and down this river with commerce.

Chairman GRAVES. That kind of brings us to the Endangered Species Act and the pallid sturgeons. The pallid sturgeon—I don't know who can answer this question. I wish the Fish and Wildlife Service were here. But is the pallid sturgeon, is it endangered worldwide? Is it just endangered in parts of the Missouri? Is it endangered throughout our river systems?

Ms. FARHAT. I believe that the Fish and Wildlife Service has listed the pallid sturgeon endangered range-wide, and it is listed in the Missouri River Basin, which requires us to operate for it.

Chairman GRAVES. Okay. So let me ask you this question, then. When it comes to management based on habitat as one of the priorities, where do you get your directions from? I mean, you are obviously going through the process of doing it, or the Corps of Engineers is going through the process of doing certain habitat reclamation, whatever you want to call it, shallow water. It is the Jameson Island Project, which I am familiar with. But my question is, does the Fish and Wildlife Service direct you on what you will do in

terms of—or the Corps of Engineers? And when I say “you,” I guess what I am saying is the Corps. But does the Fish and Wildlife Service direct the Corps on what they will do, or does the Corps take it upon themselves to move forward with that? Who makes those decisions, and who is giving the marching orders?

Ms. FARHAT. Well, the 2003 Biological Opinion lays out what are called reasonable and prudent alternatives that the Corps is to implement in order to meet the intent of the Biological Opinion. So those reasonable and prudent alternatives are designed to preclude jeopardy or the loss of that species. The Biological Opinion in terms of habitat lays out some acreages of habitat that the Corps is to build, to construct on the river, and so that is part of the recovery program to do that.

And I think it is important to remember that the Corps has chosen to comply with the Biological Opinion in this manner of constructing shallow-water habitat on the river rather than providing shallow-water habitat in other ways that we feel would be more destructive to the basin, which would include flow changes from the reservoir.

The other options are to provide larger spring rises in the spring and low summer flows that could preclude navigation during the summer period. So the Corps has decided, and worked with the Fish and Wildlife Service, to enable us to construct the habitat mechanically rather than providing it with flow. We think that that best serves the overall needs of the basin.

Chairman GRAVES. Mr. Euler, did you have something?

Mr. EULER. No, sir, not yet.

Chairman GRAVES. Mr. Frakes?

Mr. FRAKES. I would like to revert back to the original comment. I think the Corps has too much responsibility in trying to do all of these things and do them well. As Kathy Kunkel here mentioned about the flood control, without flood control, we don't have anything behind these levees. I mean, you can have infrastructure—I remember as a young teenager my father and grandfather talking about what an improvement it was when a Federal levee was put in on part of the farm properties, which was completed in 1952. We were all led to believe flood control was going to be one of the predominant reasons these levees were built. Infrastructure was built, highways were built, businesses—I could go on and on—went back with the reliability that this was going to reduce or prevent flooding, and people built and followed that idea.

Things have changed. We need to improve these levee systems, if it is build them taller or whatever. We set levees back, we lose farmland. What in your life doesn't require maintenance? Your health, your machinery, your car, your home. We have not had any help, assistance, other than locally what we have done to try to raise some of these non-Federal levees to offer more protection. The flooding likelihood has become more often due to more runoff. The weather seems more extreme.

But without rambling on and on, without having flood control, we have nothing behind these levees. The highways are closed. We can't get to the river crossings. Commerce is stopped. Businesses can't operate. Flood control—Congress needs to help with the Corps and flood control being a priority. Not that Fish and Wildlife

doesn't need some of these dollars, but it is out of balance. Fish and Wildlife receives way too much money as a percentage, out of the 100 percent. We have to have flood control. Thank you.

Chairman GRAVES. Just going back to exactly what Mr. Frakes said, I would be curious if you all agree with that, that without flood control we don't have anything, and that would include the changes that the Corps is doing when it comes to habitat. I am assuming that if it floods, it damages those as well. In some cases, you have to start all over again.

But do you agree with that?

Mr. FRAKES. Well, I do.

Chairman GRAVES. Well, I know you do.

Mr. FRAKES. Yes.

Chairman GRAVES. Because you said it.

Mr. FRAKES. And in my particular area, even where we had impounded waters where levees weren't overtopped or breached in the case of a Federal levee, Hull's Levee, the wildlife left. We had 106 days, I always say 100 days of this flooding outside these levees, and the levees, the non-Feds that were breached destroyed these homes. The wildlife is gone. It hasn't returned to the field. I don't see many deer or pheasants, quail. You know, it is just gone, because what could sustain 100 days? That has just been two years ago. That is gone. I don't see the fish and wildlife, the trees. It has killed trees on the protected side of the levees I didn't think would ever die, big cottonwoods and large trees that have been there for numerous years. They are dead and gone, falling over and whatever. This forestland and whatever is destroyed. Will there be regrowth? I presume so. But it is going to be a long time. The flood control protects everything.

Chairman GRAVES. It would seem to me that without the flood control, because if it floods, you don't have recreation, you don't have habitat, you don't have navigation, you don't have any of the priorities.

Anybody else? Mr. Euler?

Mr. EULER. What I think that you encounter is if flood control is no longer going to be the priority, what that amounts to for local communities is an unfunded mandate for us to try to make repairs or to make preparations to fight a flood so that we can help the wildlife or enhance recreation. So if, in fact, that is going to happen, what I think needs to go on is that Congress needs to look at substantial funding towards upgrade of the levee system in order to permit these other activities to occur. I believe that when the levee system was created, that it was created for flood control. I believe that, as with all things, it evolved in that powers come and go, and as that has happened, now you see an environmental focus on a structure which was once designed for flood control, and the two don't match because the system is not designed for arrays, it is not designed to have the open area between the levee structures filled with siltation or trees. And because of that, the way the system was designed to operate, it doesn't operate anymore.

What we locally are left with is how do we fix that. So we start with the Corps of Engineers, which is, to me, I see them in a positive light, but '97, '98, 15 years later we are still waiting for our resolution to the problem. The problem is nobody wants to give us

any money. The government wants to change the way the system operates because it is one of the authorized purposes. They want to change the focus of the authorized purposes. And when they change that, what we have to do is react. Well, if you are going to change that with Federal money, then let's have Federal money on the other side so the drainage districts up and down the system can prepare to operate. If you want to raise the levees and then you need a rise, then you are ready.

But now what happens is you can't control the water, so you have an event like 2011 and the water is impounded on the back side of these levees that don't overtop, levees overtop and breach, millions of dollars in damage. So FEMA comes in and we pay Federal monies to rebuild that. But that is a band aid. You just fixed a problem so the next time it happens we can fix it again. If we are going to take these Federal monies, we might as well apply them to working a systematic solution of what I believe the issue is.

Ms. KUNKEL. And I really believe that Mr. Euler hits the nail on the head. Funding is the challenge. And I will tell you that Mr. Euler in his levee district sat all of these years waiting for funding to protect the people and the businesses of St. Joe, in the same way that the levee districts in my community sat waiting for the Corps to have money in early 2012 just to come assess the damage on the levee districts. And at the same time, a contract was being let right across the river here for the Dalby Bottoms Project. There were workers and excavators running and dozers running to make chutes, much like the Jameson Island chute. That project was funded and working when we could not get funding to even look at the damage for our levees.

So people were still out of their homes, county roads were not fixed, MODOT highways were not fixed. We could not go back to commerce and trade. But yet, excavators were running to dig pallid sturgeon chutes. We have a misbalance in priorities. It is totally ridiculous to believe that the City of St. Joe has spent all of these years trying to get someone to listen to their very legitimate concerns while over \$600 million has been spent to acquire land in these communities, take it off the tax rolls, dig up good soil and dump it in the river for a fish.

Mr. EULER. One thing. It may be such a thing that the Corps doesn't have too much to do but that they don't have enough to do it with. In my business I had a guy who came to my dad one time who was complaining because his work wasn't done quick enough. My dad says I have too much to do. And the guy said, you know, I raise tomatoes, and if I can't pick all the tomatoes, I don't plant as many plants the next year. So we either need to provide enough funding for these folks to do what we want them to do, or we need to take something off their plate.

I don't believe that the Corps, when they look at the situation of the whole county, says that is a good thing that we can't get there. I think it creates a conflict for them because they can't do everything that they are supposed to do. So the issue becomes if there is too much to do, let's get rid of some of it. So you look at the eight purposes, and maybe it is time for one of the eight purposes to go.

Chairman GRAVES. And that brings us to funding priorities. When the Corps gets its funding, who makes that decision on—how are those priorities determined in terms of how much money you are going to use to purchase land? I understand there is another round of—at least that is what the rumor is, there is another round of buy-out letters that are going to go out to landowners by the Corps, and I would be very curious, too, what your thoughts on that are. That is another question altogether.

But who makes the determination on doing some of these chutes or some of these shallow-water habitats, or fixing or repairing levees, or doing whatever else there is out there? How are those decisions made? Is it the Fish and Wildlife Service that is making that decision, or is it you all that is making that decision? Is it the Administration, the Department of Interior making that decision?

Ms. FARHAT. Well, the Corps gets funding for specific line items in the budget. So money that is used to, for example, maintain the Bank Stabilization and Navigation Project or to operate and maintain our dams comes under a different funding stream than money that comes from the recovery projects, and the Corps doesn't have the ability to move money between those business lines or between those pots of money. Money that Congress authorizes to be used for the recovery program must be used for the recovery program.

Within the recovery program, the Corps does have latitude on how we spend the money each year, whether we are buying land or constructing chutes or emergent sandbar habitat, doing research. But that money, all of that money is spent to do the minimum we need to comply with the Biological Opinion. So we look out over the years, and if we are going to continue to meet our goals building shallow-water habitat, that means that we have to purchase land along the river in advance of the time that we need to build that shallow-water habitat.

But in that specific program, we work with the Fish and Wildlife Service, and we work with the Missouri River Recovery and Implementation Committee to help decide how that money is spread across the program, the Missouri River Recovery Program, in order to comply with the Biological Opinion.

Chairman GRAVES. When you say we do the minimum amount required to comply, who makes that decision on what is the minimum amount?

Ms. FARHAT. The Biological Opinion lays out a range of activities that are necessary to preclude jeopardy to the species. Many of the targets are long-term targets, looking out over the next 10 to 20 years. So we are on a glide path to meet those minimum habitat requirements, and to also complete the other activities that are laid out in there. It is laid out in the Biological Opinion.

Chairman GRAVES. When you say the biological community—

Ms. FARHAT. The Fish and Wildlife Service, the biological community.

Chairman GRAVES. So they are making the determination what is the minimum amount—

Ms. FARHAT. Yes.

Chairman GRAVES.—that is required to meet that? And again, that is the money you all have discretion over, which they are essentially dictating? Is the Fish and Wildlife Service dictating to the

Corps of Engineers, then, where they will spend that money, since they are determining what the minimum amount is?

Ms. FARHAT. Well, the Biological Opinion lays out the criteria that we have to meet to comply to avoid jeopardy to the species. On each individual year, we work with the Fish and Wildlife Service and the Basin stakeholders to decide how that money is spent across those different features of the Biological Opinion. So they aren't directing individual projects, but they are directing the overall goal of the program, which is to preclude jeopardy to the pallid sturgeon and the least tern and the piping plover.

Chairman GRAVES. And we brought up WRDA. Mr. Gregory brought up WRDA and Congress passing it, and just kind of some background with WRDA now. WRDA is in a unique position in that WRDA is the water resources bill, and it governs all of our waterways and how we do it, and it is a project bill. Specific projects are laid out in WRDA by Congress on how money will be spent. The problem is that we have an earmark ban now, and we can't figure out how to pass a bill that is a project bill that we can't have projects in.

So what is happening or what will probably happen with that, if we can't change what the definition of "projects" are, or infrastructure projects, is we will cede all that authority to the Administration. So if we pass WRDA, the water resources bill, with no projects in it, the Administration will make all the decisions on how that money is being spent.

So if that is the case, then the Administration will have total latitude, or Fish and Wildlife Service will have that ability to dictate even further to the Corps of Engineers exactly how they are going to spend that money, or again going back to what the minimum amount required to protect that habitat. Would you agree? I mean, it has to be frustrating to you that we can't get a WRDA bill passed without specific projects.

Did you like the system we had that specifically laid out things we would do? I am asking you, Ms. Farhat. Or would you rather see that authority going to what it would ultimately be, the Fish and Wildlife Service, to determine?

Ms. FARHAT. I think, in the case of the overall WRDA bill, it would be more than the Fish and Wildlife Service. A lot of local communities use the WRDA bill historically to get flood control projects and other infrastructure projects funded. So I think the Corps of Engineers always appreciates a WRDA bill. It allows us to provide our mission of protecting the nation's resources and providing flood protection.

Chairman GRAVES. And therein lies the problem, too, and you are right, communities do utilize and tap into WRDA when there are projects in it. But if we have a WRDA bill that has no projects in it, that money will go to those agencies that oversee that, and they will make the determination, which is a frustration, a huge frustration when it comes to stuff like that.

Let me ask you this. As far as the money to purchase land, where does that come from? Does that come from direct appropriations through the Corps appropriations through the Department of the Interior, or is it—

Ms. FARHAT. No. That comes through the line item in the budget that pays for the Missouri River Recovery Program.

Chairman GRAVES. Okay.

Ms. FARHAT. And that is not part of WRDA. That is a separate line item in the budget.

Chairman GRAVES. I understand that.

Ms. FARHAT. Yes.

Chairman GRAVES. So the amount of money that you determine you are going to spend on purchasing land, that is completely determined by you all, and again that goes back to the minimum required by Fish and Wildlife down the road.

Let me ask you this. When is enough land going to be purchased?

Ms. FARHAT. Well, what the BiOp lays out is that we are to construct—I believe the numbers are between 20,000 and 30,000 acres of shallow-water habitat from Gavin's Point Dam down to the mouth of the St. Louis. I could have those numbers wrong, but I think that is the right range. So we purchase land in order to build the shallow-water habitat. There is also the Missouri River Fish and Wildlife Mitigation Program, where Congress has directed the Corps to purchase 166,750 acres of land along the Missouri River to mitigate the impacts of building the dams and the Bank Stabilization and Navigation Program. So that is the authority that the Corps is using to purchase land along the river, and that is for mitigation.

Chairman GRAVES. How far along in that process are you? What did you say, 100 and—

Ms. FARHAT. One-hundred and sixty-six thousand is the target, 166,750, and I believe we have purchased about 60,000 acres to date.

Chairman GRAVES. So you have another 100,000 acres to go?

Ms. FARHAT. Yes. If we were to purchase all the land that was authorized by the mitigation program, there would be about another 100,000 acres to go.

Chairman GRAVES. And that is what the Fish and Wildlife Service determines as the minimum amount required to—

Ms. FARHAT. No. This is a separate program, the mitigation program. We use the authority provided by the mitigation to allow us to implement the Biological Opinion. But the mitigation is a separate requirement and a separate authority. Many times when we buy land and we build shallow-water habitat for the endangered species, it also counts towards that mitigation requirement. But it is separate from the Biological Opinion.

Chairman GRAVES. What are we mitigating? That is just for—so we have two programs, right?

Ms. FARHAT. Yes.

Chairman GRAVES. Okay. One program is going to purchase another 100,000 acres, and that is the mitigation program.

Ms. FARHAT. Right.

Chairman GRAVES. And the other program, let's go back to that. You said 30,000?

Ms. FARHAT. I believe the number is between 20,000 and 30,000 acres of shallow-water habitat.

Chairman GRAVES. Where are we at in that program?

Ms. FARHAT. I don't have the exact number, but I think it is around 4,500 acres.

Chairman GRAVES. Forty-five hundred acres?

Ms. FARHAT. Yes. I can get you the exact numbers.

Chairman GRAVES. So we have at least another 20,000 to 25,000 acres.

Ms. FARHAT. Fifteen to 25,000.

Chairman GRAVES. How many acres—go ahead.

Ms. KUNKEL. In Holt County, there are five of these mitigation projects that touch the county from north to south—Deroin Bend, Thurnau Conservation Area, Rush Bottoms, Wolf Creek Bend, and Hare. Several of them are partnerships between the Missouri Department of Conservation as well as Corps on the ground that the Conservation Department is managing for them. In addition to that, we have Squaw Creek National Wildlife Refuge, which is almost 10,000 acres. So acres-wise, there is a lot of this mitigation if the early purchases are within the county boundaries of Holt County, and we have certainly seen those properties come off the tax roll, and we have worked very diligently with the Corps to work on some cash land management for state and agriculture production, and some alternative attempts to keep some dollars in the economy.

But what we would really like to see—and we have been working with Congressman Luetkemeyer as well—is credit for other Federal holdings that are in wetland-type programs, Wetland Reserve Program. Big Lake State Park has a large wetland area that is around the park itself. None of those river basin wetland areas are being included in this additional 100,000 acres that still needs to be met to return to native pre-channelization habitat, and we feel it is important that there be a full assessment done from Gavin's to St. Louis of all the Federal land holdings that are considered some version of a wetland-type project, whether they are private holdings with leases, U.S. Fish and Wildlife, state conservation, state D&R, all of those things. A full inventory needs to be done to see if we are close to that 100,000, or does the Corps need to continue to purchase those acres.

And then, of course, it is a continued issue on the shallow-water habitat. We would like to see that habitat not be aimed and working itself towards levees. In many cases, if people aren't familiar with what the chutes are, with Bank Stabilization and Navigation you have the traditional channel with traditional banks, and then you have a setback, and then you have a levee system. So what is happening is, if the Corps purchases ground between the levee system and the river, then a dredge is being used to channel out little side chutes off of the main portion of the channel between the levee and the channel itself to create a shallow or a backwater habitat.

In times of high flood water, that entrance was designed originally to take about 10 percent of the flow off of the river and backwater it to provide that habitat. But, of course, in 2011 what we saw, particularly on Wolf Creek Bend, was that that mouth widened extensively. There was a loss of control of the water that was coming into the chute, very similar to putting your thumb on a garden hose and forcing a lot of the current to go to the side. So, of course, it forced the water back at the Federal levee system, and

the Corps had to spend an unbelievable amount of resources—my understanding is over \$3 million—to maintain the Federal levee there from eroding away because of damage coming from the chute.

But in the long run, what we then see is an acquisition letter asking those landowners to sell their land and a march for the levee to continue to move backwards as the river gets spread out of that channel. So it is a significant issue for us, and we do not want to see additional land acquisition. We would actually like to see projects back in WRDA that would let us work with the Corps, Conservation, D&R and the other stakeholders to really study and look at a good project on land that they already own and figure out a way to get a balance so that we can get the chutes repaired, make them feasible to meet the Biological Opinion, keep some agriculture on that particular land, and protect the levee system. But without earmarks, we can't really ask for a specific project.

Chairman GRAVES. How much ground is between the levee and the river?

Ms. KUNKEL. It depends based on the levee district.

Chairman GRAVES. I understand that. But by county, do you know?

Ms. KUNKEL. On Pick-Sloan Levee, it is a quarter mile, a half mile at some times. But with a traditional non-Federal levee, it may only be a few hundred yards.

Chairman GRAVES. Yes.

Mr. FRAKES. A comment I would like to make, Congressman Graves made a statement: How much is enough? Jody's answer to that, that what you are required to do, in visiting with Congressman Graves' staff, Melissa Rowe here, a couple of months ago about these purchases of land and maybe some compensation from the Corps and tax monies or whatever, I guess I come from a farmer that has land, from the '93 flood or the 2011 flood, that has 10 feet of sand on it, and it is financially probably not feasible to reclaim this land for farming, I guess I can see maybe that being developed for shallow-water habitat or something done. But in my area, the Benedictine Bottom on the Kansas side of the river and this Dalby Bend were both pretty much prime farmland that was purchased with these monies and literally destroyed for any agricultural production. These side chutes have been put in. I understand that the Fish and Wildlife requires this.

It seems to me that the Fish and Wildlife has too much control with the Corps in regard to this. This Dalby Bend area was 1,600 acres of average to slightly above-average farmland that will no longer produce anything. It is off the tax rolls. It will not support any small businesses that those farm owners bought chemicals, fertilizers, whatever. There is no income to the local economy there. I can't see anybody coming in there that any monies are going to support Atchison County, Kansas in either one of these projects to any large extent.

So I guess this can't be changed, this 100,000 acres that they have to quarry yet? I keep reverting to that point, and excuse me, but how much is enough? Haven't we got enough to satisfy Fish and Wildlife? Do we have to have everything outside the levees? There is prime farmland out there, and it is inside the levees. The

farm ag levee was there. There is nothing there now. I just think we are overboard.

Chairman GRAVES. I would be very curious to know how much ground is outside the levee. I mean, if it is a half mile between the levee and the river, that means it is two miles to get 640 acres.

Mr. EULER. It would vary. It would vary based on the structure.

Chairman GRAVES. I understand that.

Mr. EULER. Right, and probably the Corps could tell you on our system, on every system up, how much is outside, lay outside the levees. I would guess they have that figure.

Chairman GRAVES. It has to be literally thousands of miles along the river that would be bought up. Do you have any idea, Ms. Farhat?

Ms. FARHAT. No, I don't. What I can say is the mitigation program was designed to re-create some of the habitat that was lost when the dams and the bank stabilization project were built. When those were built, it is estimated that 522,000 acres of wetlands area and habitat was lost. So the purpose of the mitigation program is to reconstruct a portion of that, roughly a third of that land. So that is where the number, the 166,000, came from.

Chairman GRAVES. And that is purely—that is for habitat?

Ms. FARHAT. It is to mitigate the effects of the Bank Stabilization and Navigation Project.

Chairman GRAVES. I guess the next question, it kind of comes back to priorities. The Endangered Species Act—and I will just ask you straight up. Does the Endangered Species Act take priority over everything else when it comes to management of the river? And that would have a direct implication, obviously, on habitat reclamation, obviously.

Ms. FARHAT. Well, we manage the reservoir system to serve the authorized purposes while also complying with the Biological Opinion. And as I mentioned before, we believe that the best way to comply with the Biological Opinion is to build this habitat that is required by using mechanical means to purchase land and mechanically build habitat rather than doing it with flow adjustments.

So if we didn't have this program in order to buy land and construct these habitat features, we would have to go back and re-consult with the Fish and Wildlife Service, and then you have an opening there for other requirements of us, and some of them may be less palatable than what we have today.

Chairman GRAVES. So the Fish and Wildlife Service has more power than you do when it comes to managing the river?

Ms. FARHAT. Well, we are required to comply with the law.

Chairman GRAVES. But they have more power, obviously, in determining what the minimum is, and they dictate to the Corps exactly what you will do in terms of the minimum?

Ms. FARHAT. What they do is they tell us the objective that we have to meet, and there is more than one way to meet that objective. We have chosen to meet it by constructing habitat mechanically. If we choose not to do that anymore, if the Basin decides that is not the right way to go, there are other ways to meet that objective. But again, they might include aspects of managing the reservoirs that are less palatable than constructing habitat.

Chairman GRAVES. Does the Corps ever say, no, we don't think that is going to work, we don't think you are correct?

Ms. FARHAT. Absolutely. There are times that we do not operate for the benefit of the species. During the 2011 flood, for example, we suspended all of our operations throughout the Basin for endangered species. We were in complete flood operations. It was the one and only priority. We had a record amount of runoff. We hadn't planned to run a spring rise that year anyway because we had high flows on the river before the major flood started. But once the flood got started, we did not do any operations for the endangered birds or the pallid sturgeon. We do operate for those purposes, and the Endangered Species Act many times takes a back seat for operating for those other purposes.

Chairman GRAVES. And I will say this straight up. I do applaud the efforts that the Corps made to get the—I mean, you had a perfect winter for repair work, but you did move pretty rapidly on that.

That brings me to another question. So, what happened? Did Fish and Wildlife, or did you all get sued by anybody over diverting money from habitat reclamation into levee repair?

Ms. FARHAT. We did not divert money from habitat to levee repair.

Chairman GRAVES. But you didn't spend any money on habitat repair during the 2011 incident when we did all the levee repair. Or what did you say? I guess I got it wrong.

Ms. FARHAT. Well, work for the recovery program continued through the 2011 flood. There are a lot of other things that are going on each year besides building shallow-water habitat. There is an extensive science program that is going on that includes research with biologists at universities and other agencies, state agencies.

Chairman GRAVES. But you suspended just about everything?

Ms. FARHAT. We suspended the reservoir operations for the flood. But the other work of the recovery program continued on.

Chairman GRAVES. So the habitat reclamation or reclaiming or the mitigation, it continued.

Ms. FARHAT. Well, actually, as Kathy mentioned, some of it started after the flood waters had receded. During the actual flood event, there was no construction on the river.

Chairman GRAVES. Well, you couldn't. It was underwater.

Ms. FARHAT. Yes, right. But the money that the Corps spends to, for example, reconstruct levees after the flood does not come in the same funding line as the recovery program, and we cannot move money from the recovery program into things like levee repair.

Chairman GRAVES. What are the proportions in terms of what I would consider flood control, and that would be levee repair, maintenance, as opposed to what we spend on habitat, mitigation, whatever you want to call it, saving the fish?

Ms. FARHAT. The recovery program, since its inception in, I believe, 2006, has averaged \$67 million per year. And the Corps, across all business lines—navigation, flood control, the environmental lines, hydropower, water supply—spends about \$110 million on operation and maintenance of the reservoirs and the bank stabilization and flood protection measures in the Basin.

Chairman GRAVES. So \$110 million is everything other than, and the \$67 million was just habitat?

Ms. FARHAT. Yes, for the recovery program.

Chairman GRAVES. For the recovery program.

Ms. FARHAT. Right.

Chairman GRAVES. And \$110 million is everything else?

Ms. FARHAT. Right.

Chairman GRAVES. So \$67 million is for one priority? Would that encompass one priority of the eight?

Ms. FARHAT. It allows us to comply with the Biological Opinion.

Chairman GRAVES. Okay. And \$110 million is for the other seven priorities.

Ms. FARHAT. That is correct.

Chairman GRAVES. Okay.

Mr. FRAKES. If I could, Congressman, this might be a comment or maybe a question for Jody. All this money that has been spent for mitigation, shallow-water habitat, purchase of these lands, developing the lands to the design that you want them to be, all those monies that have been spent, there hasn't been much proven results that I am aware of. I would like for you to comment on that.

Chairman GRAVES. Actually, that was one of my questions, just out of curiosity, too. Is it working? Do we know if there are more pallid sturgeon as a result, or piping plovers, or least terns?

Ms. FARHAT. Okay. I am not the recovery program expert, but I will tell you what my understanding is. We have constructed shallow-water habitat along the lower river. We have not seen at this point a direct, one-on-one increase in the number of pallid sturgeons, but we do know that these shallow-water habitats are providing good variety in habitat along the river. Other species are beginning to use those. We see the invertebrates in those shallow-water habitats, and all those things are important for the pallid sturgeon.

The pallid sturgeon are a rare fish. They are very difficult to find, and we believe that as we continue to construct this habitat, that it is very important for their life cycles and that it will pay off in the long run. We are just at the stage that we are continuing to learn through both the science that we are doing and the monitoring of these habitats that we have constructed.

Chairman GRAVES. Did Fish and Wildlife get an accurate count of—after the flood waters receded last year—and I went out and saw them—there was a lot of wildlife that were left over in those—I don't know what you would want to call them—those squirrel holes which dried up and everything in there died. I remember there were sturgeon, and I don't know if they were pallid sturgeon or not, but there were sturgeon in there, and every one of them died, and I went out there and looked at that. But did you get an accurate count? Did Fish and Wildlife get an accurate count of the impact that the flood had on the wildlife that it is supposed to be protecting? I mean, flood control has an effect on the efforts that you are doing in terms of the recovery.

Ms. FARHAT. I know a lot of all varieties of fish were stranded on the flood plain. I don't know if there was anyone out there counting them. I do know that they have recorded, in the fish that they have caught, that the fish in general responded very well to

the high-water year in 2011, because there was a lot of connectivity and a lot of food source going into the river. So, in general, fish species did well during the flood.

Chairman GRAVES. But, I mean, you know that for a fact? I mean, it is hard for me to understand just exactly—I don't think we know what is in the river, but I guess that is a layman's point of view, somebody who has lived along the river their whole life.

Mr. FRAKES. To add to the question, if I might add to that, do we know that had none of the shallow-water habitat been done, that there wouldn't have still been these same results somewhat? You mentioned that it is not really completely proven that it has been successful. As we talk about small businesses here, as a farmer, if I try some project that costs money and there are not results, I will soon be broke. But you seem to have ample monies coming for this, but we need it for flood control, as the Congressman talked about, to protect this environment.

I have a problem. Is this actually doing anything? And we have another 100,000 acres to acquire. Do we just keep doing this for X number of years and then we decide, oh, that didn't work. That is a lot of money.

[Applause.]

Mr. FRAKES. I mean, we went so far, and I don't believe we have got any proven results right now that we can really put our hands on; you know, there is the fish, and that resulted from spending X number of dollars. I don't think we have that. So we just keep doing this, then?

Mr. GREGORY. I would say that we also—oh, I am sorry.

Chairman GRAVES. Go ahead, Mr. Gregory.

Mr. GREGORY. I would say that that also ties into Ms. Kunkel's statement of if we continue to keep purchasing this land, it is continuing to take money out of the tax base for the counties, and that is going to continue to hurt other small businesses throughout the Basin.

Chairman GRAVES. And we haven't even gotten into that, and unfortunately we are not going to have enough time. But I do know that Ms. Kunkel talks to me about that all the time. When we do take land off the tax rolls, it has a huge impact on a county like Holt County, which is a smaller county to begin with, and that obviously has a direct impact on small businesses and on the way the county is run and services that are provided.

Mark pointed out to me that the Endangered Species Act does require mitigation and protection to be based on best science, and I guess that comes back to determining what is best science. It isn't necessarily accurate science. It is what they consider, and I guess it comes down to what Fish and Wildlife considers best science because they are dictating to you all how you will do this, as was pointed out, because they tell you what you are going to do as the minimum with these programs, the mitigation program and the recovery program.

Ms. FARHAT. If I might interject here?

Chairman GRAVES. Sure.

Ms. FARHAT. The Corps is embarking on what we are calling a management plan, looking at the science that we have been collecting on the river over the last decade and looking at how the re-

covery program and the mitigation program work together to accomplish the needs. So this is a three-year program. It will result in an environmental impact statement, and one of the things that we want to come out of that is another look at the items that are listed in the Biological Opinion to make sure that we are doing the correct things.

So it is an opportunity to step back and look at the science that has been gathered and make sure that all of these things that we are spending money on today are actually providing a benefit, and to ensure that we are not spending money in areas that are not providing benefit to the species.

So that is going on now. There are scoping meetings coming up in September. We encourage folks to participate in those, and we should have a refreshed look at all of these aspects of the recovery program when that study is complete.

Chairman GRAVES. Well, essentially, the river is a lab experiment, that is what it is, to see if this is going to work. And the unfortunate part is—and I am going to give each of you a chance to say something before we finish up. But it is having an impact on people's lives and livelihoods who live up and down the river, and not just along the Missouri River. It has huge implications on interior drainage as well. Every river that drains into the Missouri, when we have flooding issues, it backs up and it floods inland as well and creates a massive amount of damage.

But it is, it is having a huge impact, and the unfortunate part is—and I am curious, too. And I guess this comes to another question. Are there groups out there that threatened to use the Corps or Fish and Wildlife if they don't comply explicitly, or what they determine is explicit compliance, with the Endangered Species Act, threaten you or the Federal Government, threatening the Federal Government with court action if you weren't following Endangered Species? I guess that comes back to the Endangered Species Act really taking precedence over everything else, it appears.

Ms. FARHAT. I am not aware of any pending lawsuits.

Chairman GRAVES. But I think we can determine for a fact, though, that obviously recovery and habitat gets the bulk of the money that you all are able to expend when it comes to all of those eight priorities in the river. That is obvious. You have \$177 million, and \$67 million of it is going to one priority, which is frustrating to me.

I think we have also found something else that is very interesting and which was brought up. I mean, is there any reason why? Do we need a change in law? I am assuming, if we take, for instance, the land at Squaw Creek National Wildlife Refuge, which is 10,000 acres, why couldn't that be used as part of the mitigation process? Obviously, it is protected area. It is wetlands. But is there a reason why that ground up and down the river couldn't also be used or included in that as part of that overall plan?

Ms. FARHAT. I am not familiar enough with that subject to reply.

Chairman GRAVES. That is something I am very interested in looking into and is something I am glad was brought up.

But before we finish, I will give each of you an opportunity to close.

Ms. Kunkel?

Ms. KUNKEL. Thank you for the opportunity.

Chairman GRAVES. Take as much time as you want.

Ms. KUNKEL. Thank you for the opportunity to come today. As you very well know, I am very passionate about this issue. I came and saw you in your office in D.C. in March of 2008, long before the 2011 flood was on either of our radars, because at that time we had seen changes in the Missouri River already based on the Corps' need to comply with the BiOp.

In Holt County, we saw a flood in May of 2007, in June of 2008, in April and in June of 2009—neither of those were presidentially declared and were by local rainfall flooding—for two months, for June and July of 2010, and for four months in 2011. We had not had a flood from 1993 to 2007, and I don't think that it is a coincidence that that is the year after the last of the adjustments were made to the management of the river.

That being the case, we have stepped up to make our levees better, to do better things in Holt County, to be better protected, because we know it is a flood plain. And, as Mr. Frakes said, we expect that periodically that flood plain is going to flood, and the farmers and the people that live there know that, understand that, and accept the risk that goes with that.

But what we are having is not commonplace. Climate change, droughts, floods, whatever you want to blame on the issue, we have got to look at the Corps' priorities, and they have to come back to flood control, navigation, and water quality for drinking systems, end of story. We have to make a balance in that money, and then let's take the land that they already own, let's meet the environmental needs, and let's do it well, and let's study that and be certain that the land that they own is being used to its very best ability to meet the needs of the environmental concerns that are out there. They already own that land; let's use it, and let the rest of us farm, live, and work in our communities with a reasonable protection from flooding. Thank you.

Chairman GRAVES. Mr. Frakes?

Mr. FRAKES. Well, a few comments. I would like to commend the Corps. Most of us in here are probably involved with the Kansas City District under Public Law 84-99. Our levees were repaired in pretty much of a timely fashion. A few were a little slow, but the major work got done, and I commend the Corps for that.

But I would like to see more money spent on this flood control and let's not have to use all these monies from the Corps and FEMA and SEMA. These are Federal tax dollars, state tax dollars that come in and repair after a flood. As Kathy mentioned, and I made remarks in my testimony, we can't eliminate every flood. We know that. But if we can minimize the amount of this flooding, we can save a lot of tax dollars by improving these levees, and they would be raising them some—I know that hasn't been done for a long time—and protect all this infrastructure that is sitting behind here. Farmland is not the only thing that is protected. There are lots of other things there.

I will revert back to the '93 flood and the Galloway Report here stated that the flood damages were \$12 to \$16 billion. Agriculture accounted for over half of the damages. It says reservoirs and levees prevented more than \$19 billion in potential damages. That

kind of tells us that levees and flood control work. We prevented \$19 billion. I have not seen any figures on the 2011 flood, but I guess I keep banging the drum on this flood control.

I think there is enough mitigated lands. Evidently, there is not in Fish and Wildlife. Joel Euler here made the comment that maybe the Corps has too much to do. It is like you are trying to farm 10,000 acres with a four-row planter. You can't do it all. You are greasing the squeaky wheel. You just don't do a good job anywhere you are at, or as good as you could. The Corps has the expertise to build levees and protect these lands. Let them do that. I don't believe they need to be saddled with another job of developing all this fish and wildlife habitat.

I think we are very fortunate here that Congressman Graves is being the chairman of this Committee, having an ag background and understand how all these systems work. This inundated, ponded water is a tremendous problem when we have floods. It gets more backed up "upland."

So I thank you for having us here today and the opportunity to testify.

Chairman GRAVES. Ms. Farhat?

Ms. FARHAT. Chairman, I also thank you for the opportunity to testify here today.

You know, the role of the Corps is to execute the will of the American people, as directed by Congress and the Administration, and by the courts. So our job is to operate the reservoir system to meet those eight authorized purposes while complying with the environmental laws and other regulations that are put before us.

The reservoir system does provide a tremendous benefit to this nation and to this basin. It provides, on average, about \$1.8 billion in annual benefits through those authorized purposes—navigation, flood control, hydropower production, water supply. So it does provide a tremendous benefit.

And in 2011, despite the fact that we had this tremendous flooding, record flooding, record runoff, the reservoir system and the levees and the emergency measures that were put in place prevented \$8.2 billion worth of damages in this basin.

So I think the Corps is trying to serve all of these purposes and doing the best that we can, and I assure you that our changes to the Master Manual to allow us to operate for the endangered species has not changed either the volume of storage that we have reserved for flood control or the way that storage is operated. Many times, especially when you get as far south as Missouri, the flooding that occurs is the result of local rainfall runoff, and what my office does when that occurs is we reduce the releases from the reservoir and we store water in the reservoir.

That has always been what we have done, it has not changed over time, and the recovery projects allow us to operate the reservoirs in a manner that continues to provide service to those eight authorized purposes.

Again, I thank you for the opportunity to be here today.

Chairman GRAVES. Mr. Gregory?

Mr. GREGORY. I think it all boils down to we need to look back at our purposes of the river, of the river system. Obviously, I believe the main priority should be flood control, as well as being able

to use the river for transportation of goods and services. Other countries are understanding that infrastructure equals jobs and better opportunities for everybody. Other countries are racing to get their infrastructure built so they can compete against us. We need to be taking the same approach and really taking a hard look at what our infrastructure needs and work towards getting it back to snuff.

The marine highway was brought up, making the stretch between Kansas City and Sioux City a designated marine highway. I believe it is my understanding that that would also make more funding available for this stretch that would give people, Missouri River and basin-wide, a better advantage to moving their goods and services to world markets.

Again, I thank you for the opportunity.

Chairman GRAVES. Mr. Euler?

Mr. EULER. I appreciate the opportunity to visit with you today about these issues.

Once again, if the district would just state that if flood control is not the priority any longer of the authorized purposes, then we would ask that funding be provided to allow these drainage districts to react to the actions that are taken by the Corps of Engineers so we can continue to provide the safety and the economic benefits behind the levee structure that the levees were designed for.

I appreciate the opportunity.

Chairman GRAVES. With that, I once again want to thank all of our witnesses for appearing today.

Ms. Farhat, you touched a nerve actually in your closing, and I agree with you that local rainfall has a huge impact when it comes to flooding downstream.

But the fact of the matter is, too, and this comes into management of the reservoirs and how much you are keeping the reservoirs to, snowmelt has an impact too, and we don't know what the rainfall is going to be downstream, but we do know what the snowmelt is going to be, and that is a fact. I think it has to be managed, and the decisions by the Corps have to take that into account, and I think that was a colossal mismanagement of the reservoirs in terms of knowing what that snowmelt was going to be and hoping that we had normal rainfall. There is no such thing as normal rainfall in the Midwest. It is either going to be a lot or less, and it has a huge impact on those folks up and down the river.

And I know you know that, and I hope you and your staff take away from this a little bit better understanding maybe, but I hope that you continue to be acutely aware of how this affects businesses and farmers and lives and homes and livelihoods.

But I particularly want to thank you for appearing here today, and all of the witnesses for appearing here today. I am very disappointed in the fact that Fish and Wildlife ducked this hearing, and that is exactly what they did. I am very frustrated by that. But what we will do is take the proceedings today, and we will obviously use them to move forward when it comes to appropriations bills and to possible pieces of legislation that directly affect how things are done in the future, and we will also turn this over to

the Resources Committee, all of our information, and what we have done in the past as well.

But with that, I would ask unanimous consent that members and the public have five legislative days to submit additional comments and materials for the record. Without objection, that is so ordered.

And with that, this hearing is adjourned. Thank you.

[Whereupon, at 11:53 a.m., the Committee was adjourned.]

APPENDIX

Kathy J. Kunkel
County Clerk

Holt County, Missouri

*102 W. Nodaway St.
P.O. Box 437
Oregon, MO 64473*

*660-446-3303 - phone
660-446-3353 - fax
holtccclerk@ofmlive.net*

August 21, 2013

**WRITTEN TESTIMONY:
UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON SMALL BUSINESS
FULL COMMITTEE FIELD HEARING
MISSOURI RIVER MANAGEMENT: DOES IT MEET THE NEEDS OF SMALL BUSINESS?
ST. JOSEPH, MISSOURI**

Chairman Graves and members of the United States House Committee on Small Business:

Thank you for giving me the opportunity to provide testimony today regarding the Missouri River management and its impact on small businesses. As an elected official, I have the privilege to come before this body representing the people of Holt County, Missouri. I am honored to share with you the concerns of small businessmen and women who take great pride in operating their farms and businesses in a rural area.

Situated between the urban hubs of Omaha and Kansas City, Holt County is about as rural as it gets. Less than 4,700 people call Holt County home. There are 500 miles of gravel roads and not one single stop light or flashing light in the entire county -including the towns. Everyone knows one another. It's small town America at its best. Our small businesses range from local grocery stores to a 30 million gallon ethanol plant. Each and every business in our area is dependent on the well-being of agriculture.

Holt County: A Rural Floodplain

Holt County has a wide floodplain, encompassing nearly 40% of the county's 456 square miles. It holds highly productive farmland and five towns. At its widest point our floodplain stretches 12 miles from bluff to bluff. It is crisscrossed by transportation corridors connecting Missouri with Iowa, Kansas and Nebraska by interstate and rail. It also is home to Squaw Creek National Wildlife Refuge and Big Lake State Park as well as a patchwork quilt of farmland and homesteads dating back to early settlement.

Flood Economics

The 2011 Flood brought a focused spotlight on the management practices of the United States Army Corps of Engineers and their responsibilities to the eight authorized purposes of the Missouri River. Holt County was devastated by the flooding that found water within homes up to 106 days. Interstate 29 was closed for nearly four months and in that time small businesses that sat well outside of the floodplain were closed due to a lack of commerce. You simply cannot run a truck stop without interstate traffic. In one day, forty people from Holt County lost their jobs due to flooding on one of the highest hills in the county, miles from the floodwaters.

County tax revenues are based on the economic viability of the communities within the county boundaries. Commercial and agricultural properties make up the real estate tax base; those businesses provide income for housing. Retail sales of goods provide sales tax to support the county's services such as law enforcement and road maintenance. Floods impact each revenue stream, damaging agricultural fields and commercial buildings. Closed businesses and lost crop production diminish sales tax returns and county services suffer. The loss of Big Lake State Park ended tourist and vacation revenues. In 2011, over 100 million dollars worth of corn and soybeans were lost in Holt County; the lingering effects are seen from the car dealerships to the grocery stores as citizens have fewer dollars available for large and small purchases. County sales tax revenue continues to show a downturn with 2013 currently posting a six percent deficit.

After the 2011 Flood the US Census Bureau estimated the number of people living in Holt County shrunk by nearly 300 citizens tallying just 4,655. That is an exodus. Small businesses simply cannot survive in an area where the population is declining at a rapid rate (5.2%). As the population declines and farmlands are ruined by repetitive flooding, the USACE continues to pursue the purchase of land in Holt County for mitigation efforts designed to widen the river, create shallow water habitat and erode the stabilized banks. Acquired land is removed from the tax rolls and the land removed from agricultural production, further impacting the local economy and dollar turnover within the county. Further, the USACE's water flow strategy has changed so significantly that recurrent flooding is commonplace. The USACE's focus has clearly shifted from a traditional flood control and navigation focus to one of environmental experiment – unproven and ineffective – while undermining agriculture and small businesses.

Looking to the Future

In Holt County, we've come together to explore what alternatives are available to our citizens to once again make our county a thriving place to live, work and do business. The county's levee and drainage districts have rebuilt using new designs providing protection for the land, homes and businesses within their watershed areas. Partnerships have been formed between the districts to provide greater protection in times of high water. The county utilizes the National Flood Insurance Program to ensure that homes are built above the base flood elevation to limit flood damage. Numerous projects have been implemented both publicly and privately to increase the height of the railroad, roadways and other essential infrastructure in an effort to avoid or limit future damages.

A regional partnership is underway to provide strategic planning with the states of Missouri, Nebraska, and Kansas and the Iowa Tribe of Kansas and Nebraska, White Cloud, to plan for Missouri River management and small business needs for navigation, port access, railway connectivity and interstate commerce. It is essential the United States Army Corps of Engineers manage the Missouri River for flood control and navigation interests to allow for small businesses in this region to thrive. With the opening of the Panama Canal our region is ready to provide bulk grain and other products by barge to markets of the world. A United States Department of Transportation Marine Highway Designation (M-29) is crucial to establishing this region as a waterway transportation route. The USACE must provide a reliable water level for navigation which is necessary to minimize risk and make small businesses successful. A minimal risk of flooding is imperative for business expansion, crop production and tourism.

I appreciate your willingness to hear the voice of rural America's citizens today. I would encourage you to define the future of the Missouri River Basin with a focus on the 2011 Flood's lasting impacts on the agricultural community and small businesses of the lower Missouri River. Change in the management practices for the Missouri River Basin must come now and with it must be a renewed focus on the *people* utilizing the bounty in the floodplain with a specific focus on flood control and navigation.

Thank you,



Kathy J. Kunkel
Holt County Clerk

MISSOURI LEVEE AND DRAINAGE DISTRICT ASSOCIATION

TOM WATERS, CHAIRMAN
36257 HIGHWAY Z
ORRICK, MISSOURI 64077
(816) 770-5562

LANNY FRAKES, VICE-PRESIDENT
13371 SW ST., RT. KK
RUSHVILLE, MISSOURI 64484
(816) 688-7820

CARL LENSING
CHAIRMAN EMERITUS
447 HIGHWAY 94
RHINELAND, MISSOURI 65049
(573) 236-4577

www.mllda.org

BILL LAY, SECRETARY
ROUTE 3, BOX 119
FAYETTE, MISSOURI 65248
(860) 248-3068

PAUL SEIGFREID, ATTORNEY
108 NORTH JEFFERSON
MEXICO, MISSOURI 65265
(573) 581-8888

August 21, 2013

Chairman Graves and members of the United States House Committee on Small Business:

Thank you for this opportunity to provide testimony regarding management of the Missouri River and the needs of small businesses. As Vice-President of the Missouri Levee and Drainage District Association, I represent levee and drainage districts, businesses, associations and individuals interested in the activities and issues surrounding the Missouri River and its tributaries. I understand the importance of this committee's work as it relates to the

protection of small businesses across our country. I am honored to have this opportunity to provide comments on behalf of the levee association's membership and fellow Missourians who are impacted by the operation of the Missouri River.

The bottomlands along the Missouri River include thousand of acres of highly productive farmland. Many family farm businesses rely on levees constructed by landowners, levee districts and the U.S. Army Corps of Engineers for protection from flooding. 100,000 acres of Missouri bottomland soil can produce enough calories to feed over 1 million people for an entire year. This productive soil makes up the backbone of the local economy. As the bottomland farms succeed, so does the local economy. There are spillover impacts from the success of the farm businesses. Many small businesses benefit from the production and operation of bottomland farms. The purchases of tractors, trucks, and other machinery, along with labor and other inputs have ripple effects throughout our economy.

I want to be very clear; it is the productive soils and the land that provides the foundation for small business growth and success throughout our agricultural communities. Without the highly productive soil and land the small businesses in the fruitful Missouri River bottoms would be far less successful. We have seen dramatic increases in farmland values over the past several years. According to the Federal Reserve Bank of Kansas City, first quarter farmland values in the Kansas City District have posted double-digit annual gains for three straight years. While the general economy has struggled, agriculture and small businesses tied to agriculture have held their own. Agriculture will likely be the industry leading our country out of its economic woes. It has held true in the past. This is why it is vitally important to keep our best soils in production and this is why we should protect these soils from flooding.

Flood control is vitally important to these businesses. Small businesses in the economic chain, from the farmer to the small businesses he impacts, rely on the U.S. Army Corps of Engineers to provide critical flood control along the Missouri River. Flooding has huge impacts on small businesses and the economy. Because floods are so devastating, flood control is one of the greatest needs for communities and small businesses impacted by Missouri River operations.

Unfortunately, the U.S. Army Corps of Engineers no longer seems to share the same belief concerning the importance of flood control for the small businesses impacted by their operations. In fact, we rarely even hear the Corps talk about flood control. The term flood control has all but been stripped from their vocabulary. Instead of flood control, we now hear the Corps talk about flood risk reduction. The Corps of Engineers is working hard on programs designed to reduce the federal government's risk and responsibility associated with flooding and flood recovery. But there is very little focus on actually reducing the risk of flooding.

The Corps' new approach to flood control has little to do with keeping the River between its banks. Their emphasis is on moving people and businesses out of the floodplain, buying productive

farmland, setting back or removing levees and allowing the River to run wild. This is not an approach to flood control. It is a recipe for disaster.

We understand floods will happen and we cannot control every flood. But the goal should be to keep the River between its banks and control flooding as much as possible. Even if we were able to remove all infrastructure from the floodplains, (homes, businesses, roads, power lines, pipe lines, bridges and more), the remaining farmland is worth protecting with levees and other flood control projects.

Members of the Missouri Levee and Drainage District Association have many concerns regarding the Corps' operation of the River. Shallow Water Habitat projects, Dike Notching, the threat of a manmade Spring Rise each year and land acquisition programs top the list of concerns. The Corps levee inspection program and the FEMA levee certification program also concern our members and will have impacts on small business and the ability to provide proper flood control.

Finally, it is our hope your committee and the United States Congress will provide better oversight of the Corps of Engineer's activities. Federal agencies with no oversight from congress have a long leash and high level of arrogance. This has been the case with the ongoing Shallow Water Habitat projects. Even though the Missouri Clean Water Commission decided not to provide a 401 certificate, the Corps of Engineers has decided to dump dredged spoils from their projects directly into the Missouri River. We believe this shows a great lack of respect to the Missouri Clean Water Commission and the stakeholders who overwhelmingly opposed the soil dumping.

The work of your committee is very important. I appreciate your service to our nation and your willingness to hold this hearing here today. I hope you will encourage the Corps of Engineers to make flood control their number one priority and provide the protection the small businesses need to grow and prosper. The land and productive soils along the Missouri River is one of our country's greatest assets. Providing flood control to the land is critical to small businesses throughout the Missouri River Valley and the nation. The Missouri Levee and Drainage District Association is ready and willing to help you as we work together to protect our small businesses and grow our economy.

Thank you,

Lanny Frakes, Vice-President
Missour Levee and Drainage District Association

37

**DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS**

PREPARED STATEMENT

OF

JODY FARHAT, P.E.

**CHIEF, MISSOURI RIVER BASIN WATER MANAGEMENT
DIVISION**

NORTHWESTERN DIVISION

BEFORE

**COMMITTEE ON SMALL BUSINESS
UNITED STATES HOUSE OF REPRESENTATIVES**

ON

**“Missouri River Management:
Does It Meet the Needs of Small Business?”**

AUGUST 21, 2013

Mr. Chairman and Members of the Committee, I am Jody Farhat, Chief of the Missouri River Basin Water Management Division of the Northwestern Division of the U.S. Army Corps of Engineers (Corps). I am pleased to be here today to discuss our roles, responsibilities, and efforts on managing the Missouri River Mainstem Reservoir System and on the importance of the river to small businesses and rural communities.

Over the past several years, the Missouri River basin has experienced a wide range of climatic conditions, from the record runoff in the upper basin in 2011, to flash drought in 2012. Although a drought still affects much of the basin, conditions have improved during the spring and summer of 2013, but reservoir levels behind the large upper three dams remains drawn down: Fort Peck is currently drawn down over 8 feet; Garrison, over 2 feet; and, Oahe over 5 feet. Currently, all authorized purposes for the System are being served at reduced levels except for flood control, which is enhanced when reservoir levels decline due to drought.

The Missouri River Mainstem Reservoir System is comprised of six dam and reservoir projects; hydroelectric power plants; levees (both federal and non-federal); and a 735-mile navigation channel extending from Sioux City, Iowa to the mouth near St. Louis, Missouri. The Corps is charged with responsibility managing this complex and extensive system for eight authorized purposes: flood control, navigation, irrigation, hydropower, water quality control, water supply, recreation, and fish and wildlife enhancement. In addition, operation of the System must also comply with other applicable federal statutory and regulatory requirements, including the Endangered Species Act. All of the citizens we serve in the Missouri River Basin benefit in one or more ways from this system.

Cycles of flooding and severe drought have always been a major part of the Missouri River Basin hydrology. The six Corps dams on the mainstem of the Missouri River from the largest system of reservoirs in the United States. The reservoirs are designed to capture and store mountain snowpack, plains snowpack, and rainfall runoff from the upper Missouri River Basin in the spring of the year providing flood protection for over two million acres of land in the floodplain. Water stored in the reservoirs is then utilized during the remainder of the year to serve the other seven authorized purposes. The bank stabilization and navigation project along the lower Missouri River downstream of Ponca State Park, Nebraska keeps the channel from meandering and make it more reliable for navigation. For example, an extensive system of levees (most non-federal) has been constructed from Omaha, Nebraska to St. Louis, Missouri, with levees on one or both banks for nearly the entire reach. These levees provide a measure of flood risk reduction to the adjoining developed land and nearby structures.

The Missouri River Master Water Control Manual (Master Manual) is the guide used by the Corps to regulate the six dams on the mainstem of the Missouri River: Fort Peck, Garrison, Oahe, Big Bend, Fort Randall, and Gavins Point. First published in 1960 and subsequently revised during the 1970s, the Master Manual was revised in March 2004 to include more stringent drought conserva-

tion measures, and again in 2206 to include technical criteria for a spring pulse from Gavins Point Dam for the benefit of the endangered pallid sturgeon. Neither the 2004 nor the 2006 revisions to the Master Manual changed the volume of storage in the system reserved for flood risk reduction or the manner in which that storage is regulated. The Corps does not store water in the reservoirs specifically for the endangered and threatened species and the Master Manual storage allocations were not altered to facilitate the spring pulses.

The construction and operation of the six mainstem reservoirs and other features of the System, along with the presence of federal and non-federal levees and other measures by local interests, reduced the extent the natural floodplain and altered its ecosystem. Current regulation of the System in accordance with the Master Manual to serve authorized project purposes is dependent on successful implementation of the US Fish and Wildlife Service's 2003 Amended Biological Opinion, BiOp. Implementation of the BiOp is accomplished through the Missouri River Recovery Program which includes the following elements: habitat construction including emergent sandbar habitat and shallow water habitat, flow modifications, propagation/hatchery support, research, monitoring and evaluation, and adaptive management. Stakeholder participation in the Missouri River Recovery Program is essential in order to ensure that public values are incorporated into the decision process. To that end, the Missouri River Recovery Implementation Committee has been established in accordance with Section 5018 of WRDA 2007 and is comprised of diverse group of advisory stakeholders.

The Corps also considers input from affected interests and other agencies when making water management decisions to best serve the authorized project purposes. An annual operating plan, or AOP, is prepared each year, based on the water control criteria contained in the Master Manual, in order to describe potential reservoir regulation of the System for the current operating year under a variety of water supply conditions. Following the release of the draft AOP each fall, public meetings are held throughout the basin to review the plan, take comments and answer questions. Attendees at our public meetings include state, Tribal and local government officials, interested citizens, and a variety of small business including farmers, marina operators, navigators and more. After taking into consideration comments received on the draft, the final annual operating plan is released, generally in December.

Communication with affected stakeholders continues throughout the year via press releases, monthly basin update calls, information sharing through our website, and meetings with various stakeholders and interest groups at their request.

The Corps strongly supports small businesses in the work we do on the river, both for repair and maintenance of the Corps facilities, including the work that was done following the record 2011 flood, and construction activities required by the Missouri River Recovery Program.

For example, maintenance work and repair of the Bank Stabilization and Navigation Project is often contracted out to local small businesses. Even when the Corps does this work in-house using our hired labor crews, a mix of large and small businesses are still needed to provide material, equipment and fuel. Most if not all the funding for the operation and maintenance of the Bank Stabilization and Navigation Project thus finds its way back to the local economies. Because the greatest portion of this work and our offices are in rural areas, small businesses benefit.

Completed and ongoing projects within the Missouri River Levee System have been awarded to small businesses.

As we develop Missouri River Recovery projects, we coordinate with land owners and levee districts upstream, downstream and on the opposite bank from the proposed project to ensure we understand their concerns and requirements. It is important to note that Missouri River Recovery projects are designed and constructed consistent with other uses of the river such as navigation or flood control. Many of these projects are built by small businesses.

We recognize that the operation of the Missouri River Mainstem Reservoir System impacts the lives and livelihoods of those who work and live along the river. We remain committed to operating the Mainstem System to serve the authorized project purposes, in a way that balances the competing needs of the Basin, and to meet our responsibilities to federally recognized Tribes and comply with environmental laws including the Endangered Species Act. We will continue to work closely with you and all the Missouri River Basin stakeholders in that effort.

We appreciate having the opportunity to be here today, and I look forward to hearing the testimony from small business leaders, and any ideas they may have to improve our service to the citizens of the Missouri River Basin.

Mr. Chairman, this concludes my testimony. I would be pleased to answer any questions you or the Members of the Committee might have.

Testimony of the Missouri Farm Bureau Federation
Before the
House Committee on Small Business
“Missouri River Management: Does It Meet the Needs of
Small Business Stakeholders?”
August 21, 2013

Presented by: Jason Gregory

Good morning, Mr. Chairman and members of the Small Business Committee. My name is Jason Gregory, and I am a fourth generation farmer. My wife, Beth, and I raise corn, soybeans, feeder cattle and children (Bailey and BreAnne) near Easton in north-west Missouri. I am speaking on behalf of the Missouri Farm Bureau Federation. I serve on the Buchanan County Farm Bureau Board of Directors, and my wife and I serve on the state organization’s Young Farmers and Ranchers Committee.

Thank you for holding this field hearing. It comes as no surprise to the Chairman, or other members of the Small Business Committee, that management of the Missouri River is both complex and controversial. Widespread agreement is elusive as the U.S. Army Corps of Engineers (Corps) attempts to manage for eight diverse Congressionally authorized purposes (flood control, navigation, water supply, irrigation, hydroelectric power, water quality, recreation and fish/wildlife).

The Missouri River is 2,341 miles long with a basin covering 529,350 square miles in ten states (Nebraska, Montana, Wyoming, South Dakota, North Dakota, Kansas, Iowa, Colorado, Minnesota and Missouri). Elevation of the Missouri River drops from 14,000 foot peaks to about 400 feet at its confluence with the Mississippi River in St. Louis. We could talk all day about our recent experiences with both floods and droughts. As you know, this area was hit hard by flooding in 2011 and is extremely dry as we speak. To be honest, I’m not sure what a “normal” year is anymore.

My comments will touch on several topics important to those who not only live along the Missouri River but are protected by the system of levees constructed over the past several decades. While you aren’t likely to read this in a paper or hear it on the news, construction of the main stem reservoirs and implementation of the Bank Stabilization and Navigation Program (BSNP) are a success story. Over the 1938–2001 period, estimated accumulated flood control damages prevented by the system are \$24.8 billion.

There are six areas in which I will provide brief comments:

1. *Passage of the Water Resources Development Act (WRDA) is critical to the future of our inland waterway system. Agricul-*

tural exports remain a bright spot and it's important we remain competitive in world markets. Other nations understand the concept of competitive advantage and are moving quickly to upgrade ports and waterways. We need to modernize our locks and dams and provide shippers with assurances that navigation channels on the Mississippi, Missouri and other rivers are reliable. Congress needs to pass WRDA this year.

2. *There must be adequate annual funding for the Bank Stabilization and Navigation Program.* The Missouri River is highly engineered and thus requires ongoing maintenance. Flood control remains paramount and Congress must appropriate sufficient funding to ensure the integrity of federal and non-federal levees, flood gates, revetments, dikes and other structures. Levees not only protect highly productive crop land but also homes, businesses, and critical infrastructure such as roads, bridges, railroad tracks, sewage treatment facilities, water wells, and power plants.

3. *Common sense must prevail on the Missouri River Recovery Program (MRRP).* Stakeholders from throughout the Missouri River Basin are working with federal and state agencies to address management challenges. Dialogue is useful but doesn't erase agendas. We will always fight the efforts of those who ignore the importance of protecting infrastructure by seeking to return the Missouri River to a perceived natural state of an era long gone. This includes objecting to taxpayer dollars being spent on unnecessary projects such as the Missouri River Ecosystem Restoration Plan and the Missouri River Authorized Purposes Study. We applaud the efforts of Chairman Graves, Congressman Luetkemeyer and other members of the Missouri Congressional delegation for leading efforts to defund these programs.

4. *The spring pulse should be shelved permanently.* Scientific studies have failed to prove the benefit of these man-made spring rises and there is no reason to experiment further with flow modification.

5. *Congress should prevent soil dumping in conjunction with the creation of shallow water habitat.* Although not convinced of the scientific benefits of constructing chutes along the Missouri River under any circumstances, it makes no sense to pump mechanically excavated soil directly into the Missouri River. This ignores best management practices, contradicts enforcement actions taken by the Missouri Clean Water Commission and increases nutrient-rich sediment flowing to the Gulf of Mexico. We support Congressman King's efforts to prevent further soil dumping and are pleased his amendment was adopted by the House in its version of the FY2014 Energy and Water Appropriations Act.

6. *The Endangered Species Act (ESA) should be improved to better reflect the human and economic impacts of listing decisions.* The ESA is too rigid and relies on regulation to protect imperiled species. Landowners, and other affected parties,

should be viewed not as the source of the problem but as a part of the solution.

In conclusion, we don't need more experiments, mosquitoes or publicly-owned land in the Missouri River Basin. We must minimize the effects of weather extremes by protecting lives and infrastructure, make wise investments in the BSNP and the inland waterway system, and manage flows for human needs, and where possible, enhancement of fish and wildlife habitat.

**Prepared Statement of Joel R. Euler
Given to the Committee on Small Business
on Wednesday August 21, 2013, at the
City of St. Joseph City Hall,
St. Joseph, Missouri**

Greetings

My name is Joel Euler and I am an attorney with an office located in Troy, Kansas, approximately 10 miles west of St. Joseph. I am here before you today as an attorney for the South St. Joseph Drainage and Levee District, which is one of several districts I represent along the Missouri River. The District is located adjacent to the Missouri River South of United States Hwy. 36, on the western edge of the City of St. Joseph and in Buchanan County, Missouri. The District was established more than 40 years ago and protects agricultural, residential, recreational, commercial and industrial properties.

The district is operated by a five-member Board of Directors who are elected by individuals who own real estate within the confines of the district. The makeup of the Directors includes both individual and corporate representatives. The District is responsible for the maintenance and operation of the Levee and drainage structures in the district and as such plays a pivotal role in the protection of the various entities behind the structure. In 2011, invested capital in the district totaled in excess of Two (2) billion dollars.

In about 1998, the Corps of Engineers made a review of the levee structure in the district and determined modifications were needed to allow the structure to maintain its protective capability. Since that time the District and other local units of government have been working with the Corps of Engineers to finalize the modifications to be made, however, progress is severely hampered because the Corps of Engineers is unable to regularly obtain the funding necessary to complete the design phase of the project and move the same to construction. At present it is my understanding that funds have not been allocated for this project in the upcoming budget.

I understand that the purpose of this hearing is to take input with regard to the authorized purposes that the Corps of Engineers uses to manage the Missouri River System and discuss which purpose the District believes is most important. Unequivocally the District considers the most important purpose to be flood control. Improper flood control has a negative impact on every activity conducted behind the structure.

The Individual who lives behind the structure must maintain a constant vigil during times of flooding and high water to ensure that his home and property are safe. This worry is in addition to the everyday stresses which an individual feels and often takes a heavy toll both financially and emotionally on citizens.

The Farmer who lives and works the ground behind the structure is negatively affected when releases of water are sustained for long periods. This causes saturation to the farm ground and during those times when the river level is so high that the floodgates must be closed causes ponding of water behind the structure which destroys crops and makes farming operations difficult, if not impossible.

To the Industrial and Commercial businesses behind the structure, the financial costs associated with continued high water on the river take a different form. Each time there is an extended high water event or the threat of flooding the business must modify its operation to allow for potential evacuation and must make preparations in the event of flooding. Preparations include changing production schedules, removing raw materials, products and equipment from the facility and activities of a similar nature. In some instances during sustained high water events, flood fighting operations restrict traffic and rail flow causing a shortage of raw materials which cost not only production but profit for the company.

In addition, the condition of the levee and continued flood threats take a toll on businesses in the form of increased costs associated with flood fight preparation, flood and business loss insurance and other expenses associated with a potential flood event. While the event may never occur, good business practice requires planning for the event.

For Potential business concerns about the operation of the levee structure and the Missouri River System as a whole can be a major consideration when determining whether or not to locate in the District. While some companies might choose to try to erect structures at a level where they will not be affected by high water, should the levee breach, this is cost prohibitive in most instances and as such creates a negative impact on business. In essence, if continued high water events occur they will act to chill the interest in locating within the District and as everyone is aware, competition for business is already keen and communities cannot stand many negatives with regard to their industrial areas.

With regard to the smallest businesses, the mom and pops, these businesses are almost completely dependent upon work that is derived from supporting the larger industry. The businesses are often specialized and once the larger business leaves the small businesses have no customers to serve and as such, close as well.

In closing, the District believes that unless flood control was made the primary emphasis of the operation of the Missouri River System, at some point flooding and high water events will occur with such frequency and have such an impact on businesses of all sizes that the real estate located behind the levee structures will no longer be a viable location for businesses to locate thus causing a negative impact to the community.

I am happy to answer any questions you might have.

Respectfully Submitted:

Joel R. Euler

Attorney for the South St. Joseph Drainage and Levee District

