

## It Takes Two Sides to Debate, But Only One Side to Dictate

### The Politics of the Missouri River

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#### The Letter

On December 17, 2015, 20 members of Congress from the Missouri River Basin, six senators and 14 representatives, sent a very pointed [letter](#) to the Assistant Secretary of the Army, urging restrictions on the US Army Corps of Engineers (Corps) and the US Fish and Wildlife Service (USFWS) that could significantly limit their options in complying with the Endangered Species Act in the Missouri River. Essentially, this request, if strictly complied with, would likely place endangered species in jeopardy.

This letter is a clear indication that members of Congress are influenced by anti-environmental and heavily subsidized special interests to the detriment of the general public and future generations.

The letter represents a problematic response by members of Congress to the earnest and legally required attempts by government agencies to comply with laws that Congress itself has written. Unfortunately, this letter is a clear indication that members of Congress are being influenced by anti-environmental and heavily subsidized special interests to the detriment of the general public and future generations.

For the last 30 years, the Corps and USFWS have intertwined in an effort to fix the many significant problems caused by construction of the congressionally authorized [Missouri River Bank Stabilization & Navigation Project](#) (BSNP). The BSNP turned the lower Missouri River into an ineffective and environmentally damaging barge canal that had cost taxpayers over \$750 million to build and maintain as of 1980, per the US Army Corps of Engineers' Report of the Chief of Engineers ([See Tables 20-1 and 21-A](#)). Ongoing maintenance and restoration costs have added hundreds of millions of dollars to the total cost.

[Numerous political obstructions](#) have been devised by those who want to delay or stop this river restoration effort, formally called the [Missouri River Recovery Program](#) (MRRP). The above referenced letter is just their latest orchestrated attack.

#### Background and History

##### Damming and Channelizing the Missouri River

The Missouri River had been known for centuries to flood frequently and ruthlessly, as is its nature. Regrettably, most stakeholders have refused to accept this fact, attracted by the flat and fertile floodplains created by the frequent flooding, and so floodplain farmers and industry have developed along almost the entire lower Missouri River. The government has promoted this development for economic purposes, without really considering all the negative ramifications.

After failing to construct a 6-foot deep channel during the early part of the 20th century and attempting to deal with the impacts of numerous floods, a compromise scheme was authorized by Congress through the Flood Control Act of 1944 called the [Pick-Sloan Plan](#). This plan was to resolve all the problems that the Missouri River caused to floodplain dwellers and river-city inhabitants alike.

Five new large dams and associated reservoirs would be constructed on the Missouri River between Montana and South Dakota, partly by confiscating valuable Native American floodplain land, to supplement the existing Fort Peck dam and reservoir in Montana. Congress added the lower Missouri River piece of the plan within the Rivers & Harbors Act of 1945 that authorized the 9-foot deep by 300-foot wide channel from Sioux City to the river mouth near St. Louis.

The Corps began construction of the BSNP on the lower Missouri River in the early 1950s. This project, also a part of the Pick-Sloan Plan, would lock the lower portion of the river into a specific location along its entire 735-mile completed length through the construction of [revetments](#), while also narrowing the river by about half its width by constructing wing dikes, (Figure 1) perpendicularly from the river bank. The current river width now ranges from about 600 feet near Sioux City, Iowa, to about 1,100 feet at the river mouth.



**Figure 1: Wing Dikes Construction at Indian Cave Bend, Nebraska, Missouri River, River Mile 517, 10-1935, Source: USACE**

Several large [meanders](#) were also cut off, shortening the river's length by more than 100 miles. The alteration of the highly ecologically productive and diverse river from the 30-years long project was impressive purely from an engineering viewpoint, but from an environmental perspective, it created a much faster, narrower, deeper, and almost ecologically dead [barge canal](#).

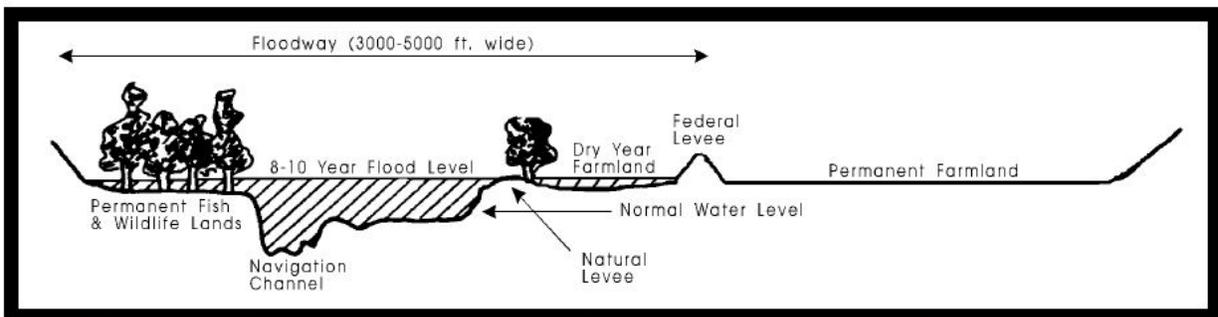
The Pick-Sloan Plan also included additional tributary dams, some of which were never constructed, and within the lower Missouri River (the river segment without dams below Gavins Point Dam) the Plan recommended a 3,000-foot wide floodway between Sioux City and Kansas City and a 5,000-foot wide floodway from Kansas City to the river mouth. Each floodway

segment was to be bordered by a federal levee running along both sides of the river where applicable (Figure 2).



Figure 2: Pick-Sloan Plan Levees (in red) to be constructed along Lower Missouri River, Source: USACE

The concurrent federal levee construction program, which began in earnest around 1948 to create the 3,000-foot to 5,000-foot wide floodway stretching between Sioux City, Iowa, and the river mouth near St. Louis, was not pursued as tenaciously as the BSNP channelization of the river due to limited funding. Because of this, as well as legal battles and cost share requirements with landowners, the Corps eventually completed only about 27 percent of the recommended federal levees. (Of the estimated 1,470 miles of recommended federal levees the Corps built only about 395 miles of levees.) As shown in Figure 3, levees were not necessary when the river was adjacent to the bluffs, resulting in something less than 1,470 miles of levees having to be constructed.



Levee Setback Alternative Floodway concept in Pick-Sloan Plan (Rasmussen 1993)

Figure 3: Pick-Sloan Plan Floodway Example

For the majority of the 1,470 miles, levees were considered necessary in the Pick-Sloan Plan and were built, but most were not federal levees built per the Plan requirements. Much of the

river floodway width is significantly less than prescribed by the Plan, though there are areas that comply with the 3,000 to 5,000 foot width or are even wider. But the narrow areas have created flow constrictions. View this [image](#) to see several areas of constriction.

In 1960, the Corps completed the [Missouri River Master Water Control Manual](#) (Master Manual) that would be used to determine how to regulate the water levels within the six Missouri River reservoirs through controlled releases to the lower portion of the river.

By 1962, the recommendation for a 5,000-foot wide floodway south of Kansas City had been reduced to 3,000 feet, based on new construction methods that had been developed for flood control infrastructure and recommendations for planned reservoirs on the Grand River that were not built. But this effectively became a moot recommendation since the vast majority of the federal levees were not constructed along the river as planned.

All five of the new dams and reservoirs were completed above Sioux City by 1964.

Per Corps Chief of Engineers reports, in 1994 the Omaha District of the Corps determined that the federal portion of the Missouri River Levee System they had been constructing was “financially complete.” The Omaha District had spent nearly \$38 million by then. The Kansas City District continued to work on the system and as of 2012 had spent over \$117 million with an estimated cost remaining of \$40 million. An estimated additional \$157 million of levee work was considered “deferred, inactive, (or) deauthorized.”

The majority of the federal levee sections that were funded by Congress were built by 1990. Per my reading of the Corps’ Chief Engineers annual reports, this amounted to about 221 miles between Sioux City, IA, and Kansas City and 167 miles between Kansas City and the Mississippi River; about 28 percent of the levee miles above Kansas City and about 24 percent of the levee miles below Kansas City originally included in the Pick-Sloan Plan.

There was a double standard used in how the reservoir and open-river landowners’ property rights were dealt with. The Native Americans were involuntarily moved from their highly valuable lands along the river for the construction of the five reservoirs. In contrast, because the language of the Flood Control Act did not protect the lower Missouri River floodway area from development, the many landowners there resisted the Pick-Sloan Plan floodway concept. The channelization of the lower river by the Corps through the BSNP physically allowed landowners to expand their floodplain development to the river bank on newly accreted land; in many instances, development included the construction of nonfederal levees, near or along the river bank.

The [floodway width requirements of the Pick-Sloan Plan](#) were far too often ignored or fought through the legal system by local landowners. Farmers had plans to plant everywhere possible in the floodplain and through those efforts, to financially benefit from what they mistakenly believed would be a flood-free river.

Ironically, the levees that were constructed near the river have exacerbated flooding by creating a much narrower floodway than was envisaged by the Pick-Sloan Plan.

#### Environmental Laws Challenge the Flood Control Act

The [Endangered Species Act \(ESA\)](#) was passed by Congress In 1973. It reads in part as follows:

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The purposes of the [Endangered Species] Act are to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, to provide a program for the conservation of such endangered species and threatened species, and to take such steps as may be appropriate to achieve the purposes of the treaties and conventions set forth ...

Because the ESA was enacted to counter the “consequence of economic growth and development untempered by adequate concern and conservation,” it was bound to be, at least in part, in direct conflict with the 1944 Flood Control Act. The ESA could be used to stifle or even to circumvent the established authorized purposes priorities for the Missouri River management by requiring river management to be altered to focus on recovering endangered or threatened species.

Almost coinciding with the completion of the BSNP in 1980, US Fish & Wildlife Service (USFWS) published their Fish & Wildlife Mitigation Report for the BSNP in 1981, detailing the

immense ecological damage that the BSNP had created on the lower Missouri River.

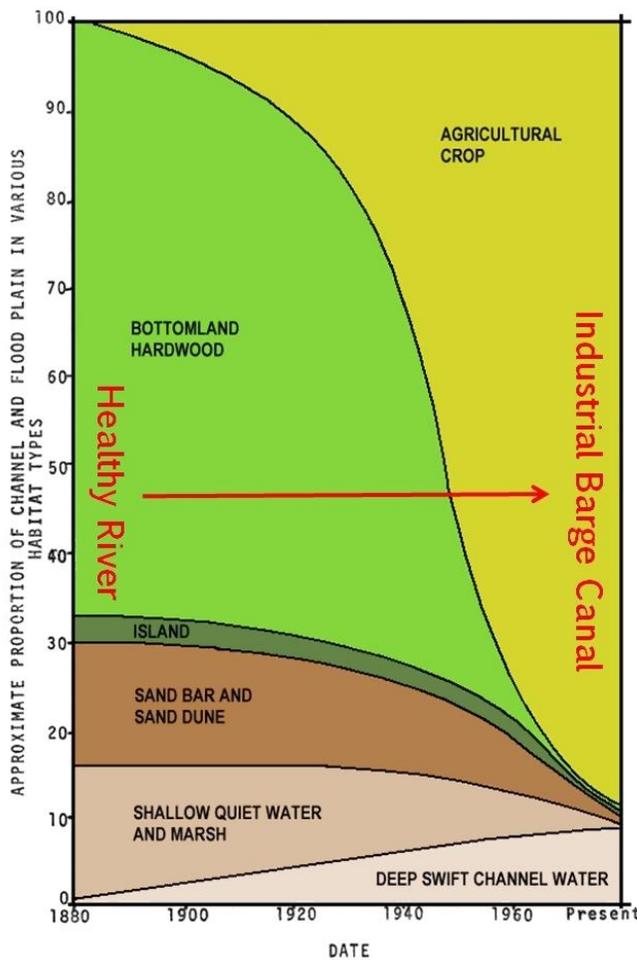
This damage included the negative impacts, through both widespread habitat losses and extensive river hydrological changes, on at least two birds, piping plover and least tern, and a fish, the pallid sturgeon.

The Battle for Fixing the River

Congress agreed with the USFWS assessment of the ecological damage caused by the BSNP to the Missouri River and authorized the Missouri River Recovery Program in the [1986 Water Resources Development Act \(WRDA\)](#) (see page 94). The Act included a requirement to mitigate floodplain and river-area losses by acquiring 48,100 acres of land. Congress later increased the land acquisition requirement to 166,750 acres in the [1999 Water Resources Development Act](#) (see page 38). This was still far short of the 522,000 acres that the USFWS report identified as being lost or damaged through the BSNP construction.

By 1989, the Corps appeared to acquiesce to both the USFWS and Congress regarding the need to fix the river, and began considering revisions to the hydrological operation of Missouri River reservoirs by making

modifications to the Master Manual. This marks the beginning of the 17-year period surrounding the Master Manual changes. It is important to note that it did not take 17 years to make the



Estimated changes in habitat types between 1880 and present within the area influenced by the bank stabilization and navigation work. (Dr. Charles Segelquist, Eastern Energy and Land Use Team, Fish and Wildlife Service).

**Figure 4: Changes to the Missouri River from BSNP, Source: USFWS**

relatively minor modifications involving less than two dozen pages within the 430-page document. Almost all of this time can be attributed to delays caused by the Corps in addressing the assertions of environmental damage by the USFWS and to litigation by the states and other stakeholders.

Litigation delays largely resulted from the courts having to interpret the priorities and relationships of the Missouri River Authorized Purposes, delineated within the 1944 Flood Control Act, more specifically, the Corps river operational authority and the legal role of the Master Manual. Lawsuits were filed by basin states:

- In 1990, North Dakota, South Dakota, and Montana opposed water releases from the Oahe reservoir Project.
- In 1991, South Dakota, North Dakota, and Montana questioned the lower priority the Corps had used for recreation and fish and wildlife uses.
- In 1992, Missouri opposed the shortened navigation season.
- In 1997, Missouri questioned Master Manual changes that would alter the navigation season length.

In the midst of this string of lawsuits, another major event played out in the Midwest. The 1993 flood had major impacts on the lower Missouri River, especially from St. Joseph, MO, to the mouth of the river. A well-known study of the flood, informally called the Galloway Report, included a discussion of the Pick-Sloan Plan levees. Excerpts from Chapter 8, titled “Levees,” within Part V of the report, are informative:

In an effort to protect adjacent farmlands and provide ample space for flood passage, the Pick-Sloan plan was adopted by Congress as a part of the Flood Control Act of 1944. This plan called for a floodway from Sioux City to the mouth of the Missouri that was 3,000 feet wide from Sioux City to Kansas City and 5,000 feet wide below Kansas City, in addition to more than 100 reservoirs throughout the Missouri River basin.

The present system of agricultural flood-control levees along the lower Missouri River floodplain is an aggregate of levees constructed by different agencies and individuals at various times and under various programs (Missouri River Basin Commission, 1982). ... Some are on or near the channel bank and extend across old river-channel deposits. Others are setback to the landward margin of the high-energy floodplain to permit flood flow conveyance. In some areas, multiple levees have been built successively riverward during the past four decades. ... The levee system lacks coordinated planning and management.

The report then included a modeling study that compared various scenarios, including following the Pick-Sloan Plan floodway for the Missouri River as originally envisioned at 5,000-foot wide. Although there was limited gauge information, the conclusions were informative, indicating the complete construction of the floodway would have lowered the flood stage under most conditions.

In 2000, the USFWS issued a Biological Opinion (Bi-Op) to the Corps for impacts on the pallid sturgeon by the construction and operation of the BSNP and stated that the Corps had severely altered, and continued to alter, the natural hydrology and shallow water habitat on the Missouri River within the project area. The Bi-Op

The Bi-Op concluded that the Corps' operations were likely to jeopardize the existence of three listed species, pallid sturgeon, piping plover, and least tern.

concluded that the Corps' operations were likely to jeopardize the existence of three listed species, pallid sturgeon, piping plover, and least tern, and it provided several actions the Corps should consider, including:

- establishing an Adaptive Management program
- implementing flow changes at Gavins Point and Fort Peck to provide for a spring rise and low summer flows
- unbalancing the storage at the Corps' upper three reservoirs on an annual rotating schedule
- and establishing a habitat restoration, creation, and acquisition program for shallow water and sandbar habitat.

Extended droughts have complicated the Corps' ability to manage the reservoirs system because at some point in time, due to the reduced water inflow into the system, there is not enough water to satisfy all authorized uses. During a drought period in 2002, separate lawsuits were filed by North Dakota, South Dakota, Montana, and Nebraska against the Corps in an attempt to stop reservoir releases, arguing that lowering the levels would hinder the spawning of forage and sport fish within the reservoirs.

In 2002, the [National Research Council](#) also weighed in regarding the health of the Missouri River ecosystem stating that:

Degradation of the natural Missouri River ecosystem is clear and is continuing. Large amounts of habitat have been transformed in order to enhance social benefits, and the ecosystem has experienced a substantial reduction in biological productivity as a result. Natural riverine processes, critical to providing ecosystem goods and services, have been greatly altered. The ecosystem has been simplified and its production of goods and services has been greatly compromised. (Page 3).

### 2003: The Year of Decisions

2003 was a very busy year for stakeholders and agencies within the Missouri River Basin with more lawsuits and rulings. That year, the courts finally determined that the Corps' operational decisions on the Missouri River System could be reviewed by the courts and that the Master Manual was binding in its decisions. The courts also determined that the Flood Control and Navigation authorized purposes were considered the dominant functions of the 1944 Flood Control Act and other authorized purposes may be given lesser priority. What was not decided within this ruling was the extent that the Corps could operate the Missouri River System for other authorized purposes at the expense of Flood Control and Navigation.

During 2003, the USFWS issued both a Supplemental Bi-Op and an Amended Bi-Op, the later in November, each regarding a requirement for a spring rise and low summer flow. The Supplemental Bi-Op removed the requirement for 2003 because of the drought, but the Amended Bi-Op confirmed the need for a bi-modal spring rise in March and May and lower summer flows no greater than 25,000 cubic feet per second.

Also in 2003, North Dakota sued to require the Corps to balance withdrawals and releases within Lake Sakakawea, alleging that the Corps was not complying with the Clean Water Act (CWA). The same year, American Rivers and other environmental organizations sued the Corps for not complying with the ESA in their operation of the river system. The ruling in these two lawsuits would provide an indication of whether or not the 1944 Flood Control Act took precedence over the CWA and the ESA.

According to Bill Lambrecht's book, *Big Muddy*, the Bush administration also weighed in during 2003 by directing the Corps not to use the new revisions to the Master Manual but to continue managing the river for barges as the priority.

An additional lawsuit filed by American Rivers asking for an injunction to the 2003 Supplemental Bi-Op, which was going to eliminate the spring rise and low summer flow, was granted by a District of Columbia District Court ruling by Judge Gladys Kessler, who later in July ordered the lowering of the river or the Corps would be fined \$500,000 each day they did not comply. The day before the fines would have gone into effect, Judge Kessler's case, and five other Missouri River cases, were transferred to the District Court of Minnesota by the Federal Judicial Panel on Multi-District Litigation, halting their assessment. In October, the new judge ordered the Corps to "release to the public a decision document outlining its planned operations for 2004 on or before March 1, 2004."

Because the Corps expected they would fail to meet the March 1, 2004, deadline, they asked for a time extension. In November 2003 the District Court in Minnesota granted the Corps an extension but also reprimanded them for its "repeated false assurances" to numerous courts over the previous 13 years, which had delayed the process.

### *The Hammer Finally Drops*

In February 2004, the Corps released for public comment the final Environmental Impact Statement for the changes proposed to the Master Manual. In March, the Corps issued a Record of Decision, approving the revised Master Manual. The selected EIS alternative included:

- upstream water conservation measures that reduced the navigation service level and the navigation season length during extended droughts
- suspended navigation if the reservoir system storage was at or below 31 Million Acre Feet on March 15 of any year
- a new "unbalanced" 3-year cycle for the upper three reservoirs to mimic natural flows to allow resident fishery production as well as to provide additional emergent sandbar and shoreline habitat for ESA-listed birds
- minimum flows for periods when navigation was not supported to provide for other downstream water uses
- and a required adaptive management process.

The District Court of Minnesota ruled in favor of the Corps on most of the remaining cases in June 2004, including those regarding the Clean Water Act and the Endangered Species Act. Both were appealed to the Eighth Circuit Court. In the 2005 CWA case, the Circuit Court held that the doctrine of preemption applies: "[i]mplied conflict preemption arises 'where state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.'"

Regarding the ESA case, the Circuit Court ruled that the Corps had considered navigation during its evaluation of changes to the Master Manual for releases during droughts. However, the court went on to state: "If, due to extreme conditions, the Corps is faced in the future with the unhappy choice of abandoning flood control or navigation on the one hand or recreation, fish and wildlife on the other, the priorities established by the FCA would forbid the abandonment of flood control or navigation."

Additionally, the court ruled that ESA compliance would interfere with the Corps' ability to satisfy the 1944 Flood Control Act mandate for navigation, which would be outside the Corps' discretion.

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By 2005, annual commercial barge traffic on the Missouri River had dropped to less than 300,000 tons, less than one-tenth its peak in the late 1970s and about 4.7 million tons below the Corps' projection that was used to justify the cost to build the navigation system as shown in Figure 5.

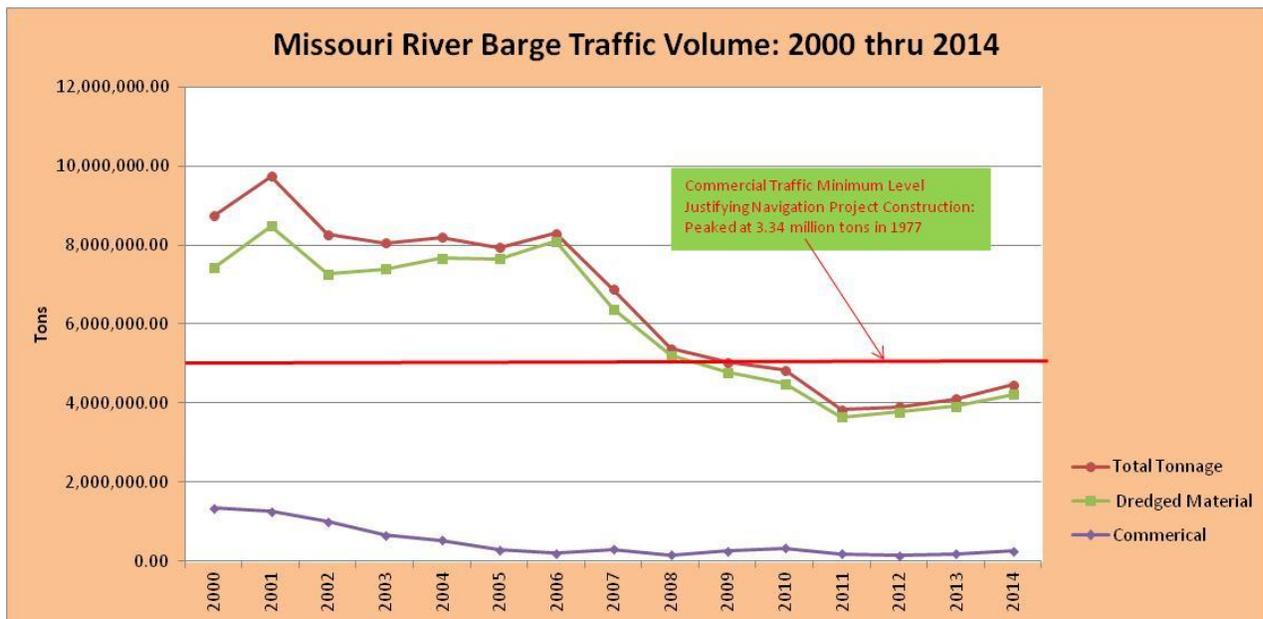


Figure 5: Missouri River Barge Traffic (Data Source: USACE)

In 2006, the State of Missouri tried again to sue the Corps for the changes to the Master Manual but in 2008 was ruled against in both the District and the Circuit Courts. The state filed another suit in 2008 during a flood period, requesting a temporary restraining order (TRO) to halt a spring pulse, alleging that the pulse would place the Fish and Wildlife authorized use above Flood Control. The TRO was denied in both courts.

Congress Attempts to React

During the course of the Master Manual debacle, it was apparent to most people that the understanding, the priorities, and the environmental condition of the world, including the Missouri River Basin, were much different than in 1944. Unfortunately, others preferred to live in the past.

On July 27, 2000, Senator Tom Daschle of South Dakota stated on the Senate floor his concerns about the

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acceptance of proposed changes to the Master Manual and of the need to reevaluate the Missouri River Authorized Purposes for their current relevance:

The question before the Senate on the Energy and Water Appropriations bill is whether we are going to cut off that Master manual revision process with this rider [from Senator Bond of Missouri] because some don't like the answers the process is revealing.

In 2009, an attempt was finally begun to settle the obvious conflicts between the 1944 Flood Control Act and both the Clean Water and Endangered Species acts.

The five-year Missouri River Authorized Purposes Study (MRAPS) was authorized in the 2009 Omnibus Bill, with \$25 million in total funding. The study was to provide an Inventory of Existing Purposes/Conditions and Forecast of Future Conditions, an Evaluation of Alternative Measures, and a final comprehensive feasibility report with integrated Environmental Impact Statement for the Chief of Engineers Report to Congress.

But in 2011, it had become apparent to the Missouri federal legislators representing special interests, primarily the navigation interests along the Missouri River, that MRAPS was going to publicly expose an inconvenient reality for those who benefited from the existing unsustainable river: more than one of the 1944 Authorized Purposes were not as relevant in the 21st century and others had become more relevant. Their solution was to successfully defund MRAPS before the results were published, keeping the public and Congress in the dark and preserving the expensive and dangerous status quo.

### **Why Missouri River Mitigation and Management Changes Are Needed**

It has been public knowledge at least since 1981, when the USFWS Missouri River BSNP Mitigation report was released, that the extensive alterations made by the Corps have severely impacted the river and its floodplain environments. Congress acknowledged in the 1986 WRDA that there was a need to study the extent of the damage, to determine how to mitigate the damage, and to spend the necessary resources to mitigate the damage caused by the construction of the BNSP.

The full mitigation of river and floodplain land authorized in MRRP will provide the public close to a billion dollars each year in benefits.

The lost public benefits dwarf the current agricultural value produced from this land.

Contrary to the disingenuous assertions by opponents of mitigation, MRRP is not simply about saving three species; it is about restoring a rare and indispensable ecosystem that had provided the public thousands of dollars per acre of valuable benefits each year before the BSNP was constructed. The USFWS estimated that over one-half million acres of river and floodplain habitat were lost, which we estimate results in more than \$2 billion in benefits lost each year. The proper mitigation of the 167,000 acres of river and floodplain land authorized in MRRP will provide the public close

to a billion dollars each year in benefits. As was discussed in a previous article, [A River of Special Interests Entitlement \(on pages 4 and 5\)](#), the lost public benefits dwarf the current agricultural value produced from this land.

The promises made by those promoting the Pick-Sloan Plan were extensive and led people to believe that the huge cost of multipurpose projects could be justified for the sum total of their projected benefits. But the benefit-cost calculation for the Plan never included the lost benefits described above. Unfortunately, even today in the Corps' benefit-cost calculations for projects, the worth of these ecosystem services benefits are only included by description; quantitatively, they are still given a zero-dollar value.

As was pointed out through the course of the lawsuits by the courts, the General Accounting Office (GAO) had also discussed as early as 1992 that the world had changed, and that the original priority and value of the Pick-Sloan Plan authorized purposes documented in the 1944 Flood Control Act are not applicable today:

Even today in the Corps' benefit-cost calculations for projects, the worth of these ecosystem services benefits are only included by description; quantitatively, they are still given a zero-dollar value.

To ensure that the Corps maximizes the economic and other benefits of all authorized purposes of the Missouri River reservoir system and other Corps water projects, the Congress should consider enacting legislation to require the Corps to establish operating priorities for its reservoir projects on the basis of the economic, environmental, social, and other benefits to be derived from all authorized project purposes. [\(page 5\)](#)

When the actual benefits received are compared with the projected benefits for the eight Authorized Purposes, an objective person cannot help but wonder why the disparities are not being rectified by Congress through an adjustment of the Authorized Purposes. Even ignoring the loss of the ecosystem services benefits, the taxpayers are being damaged by the current priorities used to manage the Missouri River (Table 1). Table 1 is based upon the National Academy of Science (NAS) 2002 report [The Missouri River Ecosystem: Exploring the Prospects for Recovery](#).

**Table 1: Missouri River Authorized Purpose Comparison**

	Commercial Navigation tons transported	Flood Control	Irrigation	Power power generated by hydroelectric dams	Water Supply municipal and industrial purposes other than irrigation	Recreation	Fish and Wildlife	Water Quality
<b>Anticipated Benefits from the Pick-Sloan Plan</b>	5 million tons	System to be regulated to prevent flood damage on the downstream reaches of the river	5.3 million acres	718 MW	Minimal Expectations	Minimal Expectations	Not adequately considered	Not adequately considered
<b>Actual Benefits</b>	< 0.2 million tons (2006)	See Figure 6, flooding has increased	About 550,000 acres	2,991 MW (2009)	At least 1,600 intakes of varying sizes	\$84.6 million (1998)	Highly degraded by Pick-Sloan alterations	Requires water treatment plants to filter pollutants and sediment
<b>States that Benefit Most (Source: NAS 2002)</b>	Missouri	Missouri	South Dakota	Nebraska, Minnesota and South Dakota	Nebraska and Iowa	North Dakota and South Dakota	Not Determined	Not Determined

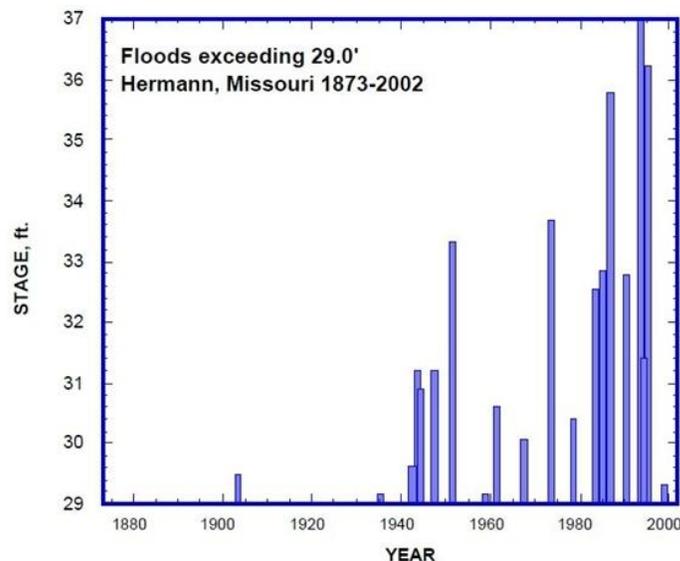
Note: Commercial Navigation was the primary justification for the BSNP

**Table 1: Missouri River Authorized Purposes Comparison, See NAS report [The Missouri River Ecosystem: Exploring the Prospects for Recovery](#) beginning at page 88 for details**

If all the above information is not enough evidence, then consider this. The Pick-Sloan Plan, as constructed, has failed to provide one of its primary functions: Flood Control. In 2011, an epic flood caused about a half-billion dollars in damages to agricultural land, public infrastructure, including levees, and dam infrastructure. Since the completion of the BSNP, there have been at least eight

Since the completion of the BSNP, flooding has clearly increased (Figure 6).

significant-to-major floods within the lower Missouri River reach, causing several billions of dollars in damages. Flooding has clearly increased, at least above pre-BSNP historical flood stage levels (Figure 6).



Flood stages of the Missouri River at Hermann have risen markedly over the last 130 years. The flood of 1903 had the highest stage (29.5 ft.) recorded within an interval exceeding 60 years, but stages over 30 feet are now commonplace and occur every 3 years or so. Data from Jarvis et al. (1936) and USGS (2002).

Source: Robert Criss, Rising Flood Stages on the Lower Missouri River

**Figure 6: Hermann, Mo. Historical Flood Stage Levels**

The Corps wisely moved away from the term “flood control” and now uses a more reasonable term: flood risk reduction. Unfortunately, Missouri River floodplain landowners have not evolved along with the Corp. They still expect full flood control on the river, even though it is very likely that they and/or their predecessors have exacerbated the flood problem by shrinking the recommended 5,000-foot floodway width by as much as 4,000 feet in places.

Finally, the Corps set out to “improve” the river for barges by completely altering its physical characteristics, narrowing it and eliminating its floodplain. Channelization of the river, however, increased the river’s flow rate so much that water flows too fast for full barges to be pushed upriver efficiently. In other words, barges cannot survive economically because of the very conditions created by the improvements intended for their benefit.

### **Why Is the Congressional Letter Inappropriate?**

Thus the December 2015 Congressional letter seeking to unnecessarily restrict the Corp’s options in revising the Master Manual can only work to further delay and distort the process.

The letter contains some seriously misleading information regarding the Final EIS and the Corps’ and the USFWS’s goals and obligations under the law.

The letter also provides only one side of the story — the special or parochial interests’ side who benefit from the existing dysfunctional and unsustainable system — while ignoring the vast majority of their constituents’ best interests.

Further, the letter ignores the reality of the severely degraded river health, the massive public subsidies that floodplain landowners receive, and the lack of net benefits received by the general public from the current system. As outlined above, the problems created by the Pick-

Sloan Plan and, specifically, the BSNP, are well-documented and have been known for at least 35 years. The process is expensive because the stakeholders who benefit from the current system want it to remain unchanged so they can continue to benefit at the expense of the taxpayers. To do that, they will likely initiate the litigation path they followed during those 17 years of the Master Manual changes to obstruct progress. The call to avoid haste is strange since the public has been waiting for decades for the restoration of the Missouri River.

There is also a certain irony in the letter's claim that the changes to the Master Manual are for the benefit of a single purpose. We assume this "single purpose" refers to the Fish and Wildlife authorized purpose because it mentions the need to recover endangered and threatened species. The Missouri River has been managed primarily for a single authorized purpose for decades, Navigation, which provides, at best, a minimal benefit to the public, and its prioritization has been to the detriment of several other more valuable purposes.

The current Missouri River System management philosophy is outmoded and completely ignores available scientific information that documents the immense public benefits of healthy, functioning floodplains. Restoration of floodplains is needed to provide habitats for species and, concurrently, valuable benefits to the public, including improving flood protection by expanding the floodway width as recommended within the Pick-Sloan Plan. The alternatives discussed in the letter have already been severely limited to relatively minor hydrological changes by recent special-interest efforts to cut the MRRP funding.

The letter undermines Congress's attempts to fix the mistake of the Pick-Sloan Plan, especially the BSNP.

The letter is part of a continuing stratagem by special interests to completely dismantle the Missouri River Recovery Program.

Ultimately, the letter undermines Congress's attempts to fix the mistakes of the Pick-Sloan Plan, especially the BSNP, through authorized programs and legislation, including the MRRP, the ESA, the NEPA, and the MRAPS and is part of a continuing stratagem by the above-mentioned special interests to completely dismantle the MRRP.

Congressional funding for the MRRP has been dramatically cut since 2011, dropping from nearly \$85 million in fiscal year 2011 to an expected \$18 million in

fiscal year 2017 (Figure 7). But what is even worse, in 2017 none of the funding will go to field projects or land acquisition — the primary activities that MRRP exists to perform.



Figure 7: Missouri River Recovery Program Annual Funding (Data Source: USACE)

### Why Congress Isn't Hearing the Other Side of the Story

Special interests have ruled Missouri River politics for well over a century, especially those interests residing in the State of Missouri. They wasted the taxpayer's money by influencing the government to build both the failed 6-foot barge channel and then the existing 9-foot channel. The influence continues through the defunding of MRRP and MRAPS. Little has changed since the 1980s when South Dakota Governor Bill Janklow lamented the "selfishness and greed" of people along the lower river valley. He further commented that he believed that the people of the lower river valley thought of the reservoirs as their "water tower," to protect them from floods and quench their thirst in droughts, regardless of the impacts on the upper-river states. (See Robert K. Schneiders' *Unruly River*, pages 249 and 250)

This really is not an "upper river versus lower river" situation. Because the Missouri River System is so unsustainable from both an ecological and economical perspective, people in both regions are being hurt while a very small group benefits.

Further, because the majority of people are largely unaware of the monument to [Rube Goldberg](#) that the Corps built within the Missouri River, they remain unengaged in its remediation. Those who are aware and are working to fix the river are drowned out by the special interests' influence on government.

There are people with very different views and opinions who are not being heard by Congress and are being harmed in multiple ways by the current management of the Missouri River. When Congressional hearings are held regarding river issues few, if any, experts or stakeholders representing these differing views and opinions are asked to testify. We believe that the majority of Americans fall into this unheard group. It is, however, convenient — both in saving time and minimizing the impact upon their campaign contributions — to ignore them and give the appearance of debate; thus allowing special interests to continue to dictate Missouri River policy.

## What Needs to Change

The Missouri River System, as well as much of the Upper Mississippi River System, was built in an era of big dams and levees, motivated by the societal belief that engineering could overcome nature's impacts on human activities. There are major flaws in this belief, including a significant disconnect from the natural laws of physics and biology that have not been reconciled. The construction of these projects had major detrimental impacts upon natural systems that had provided immense public benefits to humans at no cost before being nearly completely eliminated by the Corps' "improvements." These benefits, as well [as early laws passed to protect them](#), were largely ignored during the planning and construction of the system, especially in calculating the costs and benefits. Unintended consequences, although predicted by some, have undermined the value of expected project benefits, including increased flooding, degradation of the riverbed, extensive loss of biodiversity, and significantly faster river current.

Specific issues and problems that need consideration are as follows:

- a. Congress's emphasis upon maintaining and/or expanding existing river infrastructure systems does not match reality, specifically the lack of benefits and the underestimated costs and negative impacts of these existing systems.
- b. Congress is far too influenced by special interests.
- c. Congress has no comprehensive plan for the country; it is a project-driven mentality that neither evaluates past projects nor considers issues, including climate change and the degradation of natural resources.
- d. There is a general lack of understanding of the direct connection between healthy natural resources/ecosystems and the well-being of the public and the ability to sustain a healthy economy; the proper valuation of ecosystem services needs to be incorporated into the equation.
- e. The Cost/Benefit process used by the Corps is flawed for several reasons, including Item d. above and the following items:
  - i. The Corps has a history of inflating benefits and underestimating costs.
  - ii. The National Economic Development (NED) process allows the benefits to go to small groups of people while the costs are absorbed by the public.
  - iii. There is no consistent or comprehensive evaluation process of completed projects to determine their value to the public.
- f. The Missouri River Recovery Program (MRRP) needs to be fully funded, including for land acquisition along the river. The remaining 100,000 acres of authorized land acquisition could be used to create at least a portion of the nearly 300,000 acres of floodway along the lower Missouri River that would exist had Congress followed through with the Pick-Sloan Plan federal levees as originally envisaged. This would reduce flood stages. Read several Corps comments regarding the beneficial impact of levee setbacks after the 2011 flood [here](#).
- g. Adopt the "[erodible river corridor](#)" concept to create a sustainable Missouri River as encouraged by the Nebraska Game & Parks Commission.
- h. The Missouri River Authorized Purposes Study (MRAPS) needs to be reinstated and completed, uninterrupted, as expeditiously as possible.
- i. Congress should revisit the federal navigation powers for the realities of the 21st century, rather than the outdated legal view of the 19th century. Inland water

navigation is not nearly as necessary as it was even 50 years ago, especially considering its huge subsidies and immense environmental damages.

### **How You Can Help**

There is no champion in Congress protecting the health of the Missouri River. We need someone there who is willing to stand up to the special interests who have managed to defund important efforts like the MRRP and the MRAPS. We also need to expand the capabilities of the new Coalition being created to advocate for a healthy and functioning Missouri River. Your support in both areas is critical. You can help in any of the following ways:

- [Become a member of MCE](#)
- [Read our articles](#) on the Missouri River
- [Donate](#) to support our Missouri River work
- Contact your [representative](#) or [senator](#) urging them to fund MRRP and MRAPS

*Note: This article has used numerous documents. See [this bibliography](#) for a listing of the major source documents.*

MCE Website Article Link: <http://moenvironment.org/environment-blog/2016/09/21/it-takes-two-sides-to-debate-but-only-one-side-to-dictate/>