

Mr. Chairman, Colonel Hoffman, and Members of the Commission,

I would like to briefly explain the Department of Natural Resources' roles and responsibilities for reviewing this project. The Department is responsible for making a decision under section 401 of the federal Clean Water Act. This section of the law requires a certification that the proposed project is consistent with the state's water quality standards. Typically water quality certifications contain conditions to the extent necessary to achieve consistency with the water quality standards, and projects may be modified through the process to achieve this requirement.

Under Section 404 of the Clean Water Act, the Corps of Engineers makes the decision of whether the project is in the public interest. This is a broader standard since it requires the proposed project meet overall societal goals, including satisfying the purpose and need of the project, protection of on-site threatened and endangered species, identification and if needed preservation of historical landmarks, as well as being cost effective and consistent with other responsibilities of the agency. A Section 404 Department of the Army Permit is only valid when a Section 401 Water Quality Certification has been approved, approved with conditions, or waived.

The public notice announcing the proposed project and this public hearing are two actions the Department and Corps of Engineers have taken to ensure the project receives adequate public review. The comment period closes on June 30, 2012. The Department will consider comments with respect to water quality and the Corps with respect to overall public interest.

In earlier discussions, I hesitated to make a yes or no answer to the question of whether this project as proposed meets water quality standards. A complex project like this cannot be viewed as a collection of individual aspects in isolation, but rather must be considered as a whole. The net result must meet the standards we have set for ourselves, even though there may be shortcomings if the individual parts may not find favor as free-standing actions on their own.

For this proposed project, there are nine concepts the Department feels are important to consider. The concepts can provide insight in how the project can be viewed in the overall context of the

Missouri River environment, and the overall changes in water quality that may accompany the project. The concepts are the following:

1. Direct discharge of sediment and soil into the Missouri River is not a natural process. Because the introduction of soil into the water is not related to high flow events, this could produce a local overload of sediment, introduce nutrients unnaturally, and create potential water quality issues.
2. The top of the soil profile is richest in nutrients. Therefore, we should identify ways to keep it out of the river.
3. Woody debris contributes to a critical habitat need of many native Missouri River species and does not affect water quality. Therefore, the department has no objections to the Corps' approach for woody debris dispersal.
4. The Missouri River in Missouri carried roughly four times as much sediment historically compared to the present day. Most of the sediment from the Rocky Mountains and High Plains is now being stored in reservoirs upstream and is not reaching Missouri.
5. Erosion is a natural process in the floodplain with the Missouri River historically meandering across the floodplain, creating braided channels and eroding its banks. The bank stabilization project "fixed" the channel in place, reduced erosion and stabilized bottomland farming areas. Measures that completely prohibit erosion could have negative consequences and conflict with other applications of the Clean Water Act in Missouri.
6. Because of frequent flooding and significant groundwater flow, nitrogen, which is chemically reactive, is not overly abundant in the sediment and the water stored in the sediment at the project site. Phosphorus, which clings to particles, is present but in forms that are not biologically available in fresh water for the same reason.
7. The department has a long history of disputing calculations of nutrient sources to the Gulf of Mexico while supporting the general concepts of the Gulf Hypoxia Task Force. The department and commission should seek assurance from the Corps and EPA that these projects won't be counted against Missouri in calculations of nutrient loading to the Gulf and that the projects will be stopped or altered if any significant change is documented in nutrient delivery as a result of this or other habitat restoration projects.

8. The department is well aware of concerns of the local levee and drainage district and asks that the Corps be more attentive to such concerns in the future. Creating habitat on appropriate properties is not a license to adversely affect your neighbors.
9. The Corps must commit to maintenance of the control structures related to their projects in order to maintain the navigation channel and protect adjoining lands from erosion.

As the proposed project proceeds through review and seeks authorization, the Department asks the Commission's consideration of these concepts as part of the review of the project. Use of these concepts can add some deeper consideration to the factors involved in the decisions the Commission, Department and Corps must ultimately reach.

Our review of the project suggests the ingredients for a successful effort are present. However, it may be productive to consider different construction methods, changes in staging activities, and appropriate followup to ensure the project meets the objectives. We envision a project that is somewhat different from all the alternatives before us today. We have not previously shared these concepts with the Corps and would ask their consideration as the review of the project proceeds.

Department staff would like to consider these or similar changes to the project as it continues review, and hopefully reaches a stage where the Commission, Department and Corps achieve a comfort level that the proposed and any future projects meet all of the decision criteria involved. At this point we ask the Commission's concurrence for Department staff to consider these and perhaps other additional or different techniques as part of the review of the project, as we would toward a viable productive project.

