

**DRAFT**  
**MINUTES OF THE**  
**MISSOURI CLEAN WATER COMMISSION MEETING**  
**Department of Natural Resources**  
**Lewis and Clark State Office Building**  
**LaCharrette/Nightingale Creek**  
**Jefferson City, MO 65102**

**June 11, 2012**

**Present**

Sam Hunter, Chair, Missouri Clean Water Commission  
Sam Leake, Missouri Clean Water Commission  
Dennis Wood, Missouri Clean Water Commission  
Wallis Warren, Missouri Clean Water Commission  
John Cowherd, Missouri Clean Water Commission  
Buddy Bennett, Missouri Clean Water Commission  
John Madras, Director of Staff, Missouri Clean Water Commission  
Jennifer Frazier, Counsel, Missouri Clean Water Commission  
Malinda Steenbergen, Secretary, Missouri Clean Water Commission

Robert Alpers, Farm Bureau, Prairie Home, Missouri  
Randy Asbury, Coalition to Protect the Missouri River, Higbee, Missouri  
Stacia Bax, Missouri Department of Natural Resources, Jefferson City, Missouri  
William Beacom, Sioux City, Iowa  
Thomas G. Bell, U.S. Fish and Wildlife Service, Columbia, Missouri  
Kevin Bond, U.S. Army Corps of Engineers, Kansas City, Missouri  
Naomi Boss, Congressman Sam Graves' Office, Salisbury, Missouri  
Dean Bossert, U.S. Fish and Wildlife Service, Columbia, Missouri  
Vince Buck, Saline County Farm Bureau, Marshall, Missouri  
Jennifer Campbell-Allison, Missouri Department of Conservation, Jefferson City, Missouri  
David Cassidy, Missouri Farm Bureau, Jefferson City, Missouri  
Melanie Cheney, Missouri River Relief, Rocheport, Missouri  
Lorin Crandall, Missouri Coalition for the Environment, St. Louis, Missouri  
Harold Deckerd, Natural Resources Conservation Service, Columbia, Missouri  
Jim Diederich, Kaiser, Missouri  
Robert Diederich, Hartsburg, Missouri  
Stephen Diederich, Hartsburg, Missouri  
Mandell Elson, Miami Levee District #1/Missouri Levee & Drainage District Assoc., Miami, Missouri  
Joe Engeln, Department of Natural Resources, Jefferson City, Missouri  
Dan Engemann, Representative Luetemeyer's Office, Washington, Missouri

Josie Erfling, Tri County Levee District/Missouri Levee & Drainage District Assoc., Hermann, Missouri  
Wilmer Erfling, Tri County Levee District/Missouri Levee & Drainage District Assoc., Hermann, Missouri  
Steve Fairchild, Today's Farmer Magazine, Columbia, Missouri  
Dennis Feezor, Feezor Farms, California, Missouri  
Monte Fenner, Saline County Commission, Marshall, Missouri  
Steve Fischer, U.S. Army Corps of Engineers, Kansas City, Missouri  
Susan Flader, Missouri Parks Association, Columbia, Missouri  
Richard Fordyce, Soil and Water Commission, Bethany, Missouri  
Joseph B. Gibbs, P.E., Missouri Levee & Drainage District Assoc. & Levee Districts, Columbia, Missouri  
Marshall Griffin, St. Louis Public Radio, St. Louis, Missouri  
Greg Grotjan, Brunswick, Missouri  
Patricia Hagen, Audubon Missouri, St. Louis, Missouri  
Julie Harker, Brownfield Ag News, Jefferson City, Missouri  
Rick Hayes, MLDDA, Brunswick, Missouri  
Nelson Heil, Presiding Commissioner Carroll County, Norborne, Missouri  
Brent W. Hoerr, Upper Mississippi IL and MO River Association, Palmyra, Missouri  
Colonel Anthony Hofmann, U.S. Army Corps of Engineers, Kansas City, Missouri  
Leslie Holloway, Missouri Farm Bureau, Jefferson City, Missouri  
Rose Marie Hopkins, Private Citizen, Jefferson City, Missouri  
David Hoover, U.S. Army Corps of Engineers, Kansas City, Missouri  
Blake Hurst, Missouri Farm Bureau, Jefferson City, Missouri  
Steve Iverson, U.S. Army Corps of Engineers, Kansas City, Missouri  
Bill Jackson, Missouri Levee & Drainage District Assoc., Brunswick, Missouri  
Jane Johnson, Missouri Levee & Drainage District Assoc., Brunswick, Missouri  
Marc Kaiser, Perry Ag Lab Inc., Bowling Green, Missouri  
Meagan Kaiser, Perry Ag Lab Inc., Bowling Green, Missouri  
Joseph F. Kamphoefner, Defiance, Missouri  
Shane Kinne, Missouri Corn Growers Association, Jefferson City, Missouri  
Brian Klipponstein, Senator Roy Blunt's Office, Platte City, Missouri  
Robert Knight, Missouri Levee & Drainage District Assoc., Brunswick, Missouri  
Chris Klenklen, Missouri Department of Agriculture, Jefferson City, Missouri  
Dan Kuenzel, Farmer, Washington, Missouri  
Matt Kuenzel, Deppe Farms, Washington, Missouri  
Kathy J. Kunkel, Holt County, Oregon, Missouri  
Paige Kunkel, Holt County, Oregon, Missouri  
Chuck Lay, MFA Incorporated, Columbia, Missouri  
Keith Leimkuehler, Brunswick, Missouri  
Paul W. LePage, Cole Junction Levee District, Jefferson City, Missouri  
Marc Linit, Columbia, Missouri  
Doris Linneman, Linneman-Weekley Levee District, Blackwater, Missouri  
Jason Linneman, Sky Vu Farms, Blackwater, Missouri  
Jerry Lueckenotte, Cole Junction Levee District, Centertown, Missouri  
Dale R. Ludwig, Missouri Soybean Association, Linn, Missouri

Jesse Lybarger, Retired River Captain, DeWitt, Missouri  
Jim Macy, Missouri Department of Natural Resources, Jefferson City, Missouri  
Steve Mahfood, The Nature Conservancy, Wildwood, Missouri  
William Mazut, New Haven, Missouri  
Ashley McCarty, Self, Novinger, Missouri  
Jack McManus, Attorney General's Office, Jefferson City, Missouri  
Scott Mensing, U.S. Army Corps of Engineers, Kansas City, Missouri  
Denny Mertz, Missouri Farm Bureau, Chesterfield, Missouri  
Valerie Mertz, Missouri Farm Bureau, Chesterfield, Missouri  
Randy Meyer, Brunswick, Missouri  
Brian Munzlinger, Farm/Senate Ag Chair, Williamstown, Missouri  
Dave Murphy, CFM, Jefferson City, Missouri  
Dan Nikodim, Missouri Pork Association, Columbia, Missouri  
Diane Oerly, Friends of Big Muddy, Columbia, Missouri  
Richard Oswald, Langdon, Missouri  
Tom Payne, Columbia, Missouri  
Bob Perry, JD, Bowling Green, Missouri  
Bob Perry, (biochemist), Bowling Green, Missouri  
Kristin Perry, Bowling Green, Missouri  
Sonja Perry, Perry Ag Lab and Missouri Farm Bureau, Bowling Green, Missouri  
Becky Plattner, Private Citizen, Grand Pass, Missouri  
Greg Poleski, Sierra Club, Maryland Heights, Missouri  
Anita Randolph, Audubon Missouri, Jefferson City, Missouri  
Todd Rauch, MFA, Columbia, Missouri  
David E. Riegel, Riegel Farms, Washington, Missouri  
Mark Russell, Missouri Soybean Association, Jefferson City, Missouri  
Steve Schnarr, Rocheport, Missouri  
Sharon Schnuck, Overton Wooldridge Levee District, Boonville, Missouri  
Arthur H. Schnuck, Jr., Wooldridge Levee District, Boonville, Missouri  
David Shorr, Missouri Dredgers Group, Jefferson City, Missouri  
Terry Smith, Chariton County Resident, Brunswick, Missouri  
Brook Spear, Great Rivers Environmental Law Center, St. Louis, Missouri  
Donna Spickert, Congresswoman Vicky Hartzler's Office, Jefferson City, Missouri  
Tom Stallings, Saline County Commission, Marshall, Missouri  
Peggy Smart, Levee Districts, Tebbetts, Missouri  
Carolyn Stundebeck, Self Employed Farmer, Salisbury, Missouri  
John W. Stundebeck, Self Employed Farmer, Salisbury, Missouri  
Steve Taylor, Missouri Agribusiness Association, Jefferson City, Missouri  
Billy Thiel, Missouri Corn Growers Association, Marshall, Missouri  
Elliott Usher, Columbia, Missouri  
Tom Waters, Missouri Levee and Drainage District Association, Orrick, Missouri  
Wedge Watkins, U.S. Fish and Wildlife Service, Columbia, Missouri  
James A. Weber, St. Charles, Missouri  
Alan Wessler, DVM, MFA Inc., Columbia, Missouri  
Emily Wilbers, CFM, Jefferson City, Missouri  
Gary Whech, Missouri Corn Growers, Jefferson City, Missouri

Nathan White, Farm Bureau, Norborne, Missouri  
John Sam Williamson, Farm Bureau, Columbia, Missouri  
Darryl Young, Mendon, Missouri

## CALL TO ORDER

Chair Hunter called the meeting of the Missouri Clean Water Commission to order on June 11, 2012 at 9:05 a.m., at the Department of Natural Resources' Lewis and Clark State Office Building located at 1101 Riverside Drive, Jefferson City, Missouri.

Chair Hunter made introductions of the Commissioners, Colonel Tony Hofmann of the U.S. Army Corps of Engineers, Staff Director, Legal Counsel, and Commission Secretary.

## ADMINISTRATIVE MATTERS

### **Public Hearing – Jameson Island Project**

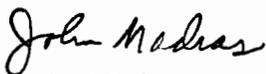
The Missouri Clean Water Commission and the U. S. Army Corps of Engineers – Kansas City District conducted a joint public hearing on the Jameson Island Project. No action taken by the Commission.

A Court Reporter from Midwest Litigation was in attendance and the official hearing transcript is attached.

## ADJOURNMENT OF MEETING

The public hearing adjourned at 1:30 p.m.

Respectfully Submitted,



John Madras  
Director of Staff

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JOINT PUBLIC HEARING  
MISSOURI CLEAN WATER COMMISSION  
AND  
U.S. ARMY CORPS OF ENGINEERS - KANSAS CITY DISTRICT

IN RE: JAMESON ISLAND PROJECT

June 11, 2012

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JOINT PUBLIC HEARING

MISSOURI CLEAN WATER COMMISSION

AND

U.S. ARMY CORPS OF ENGINEERS - KANSAS CITY DISTRICT

IN RE: JAMESON ISLAND PROJECT

Department of Natural Resources  
Lewis and Clark State Office Building  
LaCharrette/Nightingale Creek Conference Rooms  
1101 Riverside Drive  
Jefferson City, Missouri

June 11, 2012

BEFORE: Dr. Samuel M. Hunter, Chairman  
Samuel D. Leake, Commissioner  
John Cowherd, Commissioner  
Wallis Warren, Commissioner  
Dennis Wood, Commissioner  
Buddy Bennett, Commissioner  
Colonel Anthony J. Hofmann,  
Army Corps of Engineers

REPORTED BY:

KELLENE K. FEDDERSEN, RPR, CSR, CCR  
Missouri CCR No. 838  
Midwest Litigation Services  
3432 West Truman Boulevard, Suite 207  
Jefferson City, MO 65109  
(573)636-7551

1 (WHEREUPON, the hearing began at 9:01 a.m.)

2 CHAIRMAN HUNTER: Thank you. Thank you for  
3 being here today. I look forward to hearing all the  
4 comments about the Jameson Island project. At this time I  
5 would like to make some introductions. On my right, far  
6 end of the table, Commissioner Sam Leake from Perry. Next  
7 to him, Commissioner Buddy Bennett from Oak Grove. Then  
8 Commissioner Dennis Wood from Kimberling City,  
9 Commissioner Wallis Warren from Beaufort, John Cowherd  
10 from Mount Vernon and myself, Sam Hunter from Sikeston.

11 On my left, Colonel Tony Hofmann from the  
12 Kansas City district of the Corps of Engineers; John  
13 Madras, the Director of the Water Protection Program; our  
14 legal counsel from the Attorney General's Office, Jennifer  
15 Frazier; Malinda Steenbergen, our secretary. Linda  
16 stepped out. We have a timekeeper today, too. Very  
17 unusual, but we think we might need it.

18 The Commission will now begin the public  
19 hearing on the Jameson Island project. The purpose of  
20 this public hearing is to provide the U.S. Army Corps of  
21 Engineers with the opportunity to explain the project and  
22 later to answer questions, and for the public to provide  
23 to both the Department and the Corps their comments on the  
24 proposed project.

25 We ask that all individuals present fill

1 out an attendance card so that our records are complete.  
2 If you wish to present verbal testimony, please indicate  
3 that on your attendance card. When you come forward to  
4 present testimony, please speak into the microphone and  
5 begin by identifying yourself and your affiliation to the  
6 court reporter.

7 Today's hearing agenda provides the  
8 structure for this morning's hearing. The Corps will  
9 provide introductory comment and information on the  
10 project. This will be followed by the opportunity for  
11 public comments in the order as listed on the agenda.  
12 When statements by local elected officials are completed,  
13 we will estimate the time available for each of the  
14 remaining individuals wishing to speak.

15 The Corps will also strive to answer  
16 specific questions which people may have on the project.  
17 If you have a question you would like the Corps to  
18 address, please use a separate card from the back table to  
19 state the question. All cards submitted by ten o'clock  
20 this morning will be reviewed by the Corps, and they will  
21 respond starting at 11 o'clock.

22 This public hearing is not a forum for  
23 debate or for resolution of issues, and criticism of  
24 another commentator's remarks will not be tolerated.

25 The Commission asks that those commenting

1 limit their testimony to the time allowed and not repeat  
2 comments that others have already made. We also request  
3 that all attendees either turn their cell phones off or  
4 set them to airplane mode.

5                   Following the public hearing today, the  
6 Commission will review testimony presented and consider  
7 the project.

8                   The court reporter will now swear in anyone  
9 wishing to testify at this public hearing before the Clean  
10 Water Commission. Will all those wishing to comment  
11 please stand.

12                   (Those wishing to testify were sworn in by  
13 the court reporter.)

14                   CHAIRMAN HUNTER: Thank you. First we will  
15 hear from Colonel Hofmann of the U.S. Army Corps of  
16 Engineers.

17                   COLONEL HOFMANN: Thank you, Dr. Hunter and  
18 members of the Missouri Clean Water Commission. Good  
19 morning, ladies and gentlemen. I'm Colonel Tony Hofmann,  
20 the district commander of the Kansas City District, Army  
21 Corps of Engineers.

22                   I'd like to welcome everyone to this public  
23 hearing that's being held jointly by the Missouri Clean  
24 Water Commission and the Corps concerning the Corps'  
25 proposed Jameson Island unit shallow water habitat

1 restoration project.

2                   The Corps is evaluating the project in  
3 compliance with requirements of the National Environmental  
4 Policy Act and for compliance with the Clean Water Act  
5 Section 404(b)(1) guidelines.

6                   Under the Clean Water Act, the Corps of  
7 Engineers is charged with regulating the discharge of  
8 dredged or fill material into the waters of the United  
9 States. The goals of the Clean Water Act are to maintain  
10 and restore the chemical, physical and biological  
11 integrity of the nation's waters.

12                   We believe that the fish and wildlife  
13 habitat restoration project we are proposing is very  
14 important to the native species found in the Missouri  
15 River and clearly consistent with the goals of the Clean  
16 Water Act.

17                   The proposed project is described in detail  
18 in our public notice and the project implementation report  
19 and involves the excavation of a 6,000 foot long side  
20 channel chute to provide shallow water habitat and restore  
21 the dynamic river processes which will develop and  
22 maintain it.

23                   The Corps is carrying out the project under  
24 the authority of the Missouri riverbank stabilization and  
25 navigation, fish and wildlife mitigation project, and to

1 meet habitat metrics established in the U.S. Fish and  
2 Wildlife Service's 2003 amendment to the 2000 biological  
3 opinion on the Corps' Missouri River system operation and  
4 maintenance.

5                   Comments provided today at the public  
6 hearing, along with written comments submitted in response  
7 to the public notice, will be evaluated prior to my final  
8 decision on the project and will be included in our final  
9 project implementation report.

10                   Before we get to the comment period, there  
11 are some comments that we've heard repeatedly from a few  
12 individuals. I'd like to address those up front.

13                   Frequent comment No. 1, project purpose,  
14 shallow water habitat creation. First, the purpose of  
15 this project is to restore shallow water habitat to the  
16 Missouri River. The definition of shallow water habitat  
17 includes their dynamic nature with depositional and  
18 erosive areas, predominance of shallow depths intermixed  
19 with deeper holes and secondary side channels, lower  
20 velocities and higher water temperatures than main channel  
21 habitats.

22                   The existing Clean Water Commission order  
23 requires in part that no sediment disturbed by  
24 construction activities shall enter the waters of the  
25 Missouri now or in the future. This clearly contradicts

1 the very definition of shallow water habitat. Creating a  
2 mini Missouri River canal with stabilized banks to prevent  
3 natural river processes is not consistent with the project  
4 purpose of shallow water habitat creation.

5                   Some comments have suggested that the Corps  
6 implement Alternative 3. However, under  
7 Section 404(b)(1), the Corps must select the least  
8 environmentally damaging practicable alternative. It's  
9 not -- this is not Alternative 3. The Corps' evaluation  
10 of alternatives clearly shows that Alternative 3 is more  
11 environmentally damaging to riparian timber, wetlands and  
12 fish and wildlife resources and is not consistent with the  
13 project purpose.

14                   The picture I want to create for you is  
15 that in Alternative 3 the project would require the  
16 clearing of an 800-foot wide swath of riparian forest,  
17 excavating the chute to the full 200-foot width, and  
18 creating two stockpiles, one on either side of the chute,  
19 which are 15 feet high. In accordance with the existing  
20 Clean Water Commission order, these stockpiles would then  
21 be stabilized to prevent any erosion.

22                   Not only would this wipe out all of the  
23 existing habitat, including wetlands, on both sides of the  
24 chute, but it also limits floodplain conductivity by  
25 essentially forming two 15-foot high levees across a

1 national wildlife refuge. These large permanent berms  
2 would alter flows during flood events, and of all  
3 alternatives, this would be the least beneficial to the  
4 Howard County Levee District.

5                   Frequent comment No. 2, double standard.  
6 Another thing that we have heard is that it's illegal to  
7 place sediment in the river, and there's a double standard  
8 when it comes to placing sediment in the Missouri River.

9                   This is untrue. It's not illegal to place  
10 sediment in the river. In fact, that's what Section 404  
11 of the Clean Water Act was specifically created to  
12 address. Section 404 permits are issued for discharge of  
13 dredged or fill materials into the waters of the United  
14 States.

15                   So what is illegal? It's illegal to place  
16 fill in the waters of the U.S. without prior  
17 authorization. It's illegal to not comply with the  
18 conditions of a given permit, but it's not illegal to  
19 discharge sediment in the river with prior authorization.

20                   The Corps issues thousands of permits every  
21 year, and I administer this program for the Kansas City  
22 district. In fact, the Corps has authorize the placement  
23 of material into the Missouri River by local governments,  
24 water treatment facilities, levee districts and private  
25 parties, including commercial sand dredgers and casino

1 owners. Most recently this has included the placement of  
2 substantial amounts of alluvial sediment into the Missouri  
3 River by the City of Leavenworth, Kansas and St. Joseph,  
4 Missouri. Both of these activities also received a  
5 Section 401 water quality certification from the Missouri  
6 Department of Natural Resources.

7                   With regards to comparisons between the  
8 various soil conservation initiatives and the Jameson  
9 Island project, the USDA in recent congressional testimony  
10 has stated that sediment discharged into the river from  
11 chute restoration projects is a small fraction of the  
12 total yearly sediment carried by the river.

13                   Moreover, sediment discharges from  
14 restoration activities are a one-time event, and sediment  
15 reduction from the upland on-farm soil and water  
16 conservation practices is generally a separate issue from  
17 the concerns regarding sediment loading in the Missouri  
18 River. Comparing upland soil conservation to the proposed  
19 shallow water habitat creation is comparing apples to  
20 oranges. Simply stated, this alleged double standard has  
21 no validity and is inaccurate.

22                   Frequent comment No. 3, validity of the  
23 National Research Council, NRC, study. Something else I  
24 want to briefly clarify for the Commission and the group,  
25 the public today is the authority, validity and

1 conclusions of the NRC study.

2                   In the spirit of collaboration and as an  
3 alternative to litigation, the Corps chose to commission  
4 the nation's foremost scientific agency to look at the  
5 concerns related to the water quality in Missouri and also  
6 to review any impacts that shallow water habitat  
7 construction may have on the Gulf of Mexico.

8                   Even still, we continue to hear comments  
9 about hypoxia in the Gulf of Mexico and that the shallow  
10 water habitat construction projects are a cause of it.  
11 The NRC study has clearly disproved that.

12                   The conclusions of the NRC study found  
13 that, among other things, one, a comparison of potential  
14 phosphorus loads from Corps shallow water habitat projects  
15 with load increments required to produce measurable  
16 changes in the aerial extent of gulf hypoxia shows that  
17 these projects will not significantly change the extent of  
18 the hypoxic area in the Gulf of Mexico. That's directly  
19 out of the NAS study.

20                   Also out of that study, No. 2, given the  
21 relatively small volumes of sediment loadings from the  
22 Corps' Missouri River emergent sandbar habitat and shallow  
23 water habitat, it is not appropriate to relate changes in  
24 the aerial extent of the hypoxic zone to sediment and  
25 nutrient loadings from the Missouri River emergent sandbar

1 habitat and shallow water habitat projects in any given  
2 year.

3                   Some individuals have also challenged the  
4 integrity of the National Academies and the independence  
5 of the NRC study that was produced. I'd like to make one  
6 thing clear. The NRC study was an independent and  
7 objective scientific review of the sediment management of  
8 the Missouri River, and one of the trademarks of the  
9 National Academy is the independence of its study process.

10                   This body of scientific experts advises  
11 federal agencies and Congress on matters related to  
12 science. It's often referred to as the supreme court of  
13 science. The National Academy of Science started under  
14 the Lincoln administration in 1863. Questioning the  
15 integrity of this body given its longstanding history and  
16 reputation is utterly ridiculous.

17                   Lastly, both of the NRC reports initiated  
18 by the Corps of Engineers and the Environmental Protection  
19 Agency were considered when drafting the federal position  
20 statement on shallow water habitat, sediment management,  
21 and in evaluating alternatives for Jameson Island. Both  
22 reports shared the same study director, and each study was  
23 reviewed by a committee member of the other study.  
24 Members of the panel are also members of the Gulf Hypoxia  
25 Task Force.

1                   Fourth, frequent comment No. 4, sediment is  
2 a pollutant under the Clean Water Act. The joint federal  
3 position recognizes the importance of receiving water  
4 characteristics in relation to sediment and the Clean  
5 Water Act. The natural chemical and physical condition of  
6 each specific water body and the associated water quality  
7 requirements of its animals and plants living there need  
8 to be considered when making assessments regarding  
9 sediment.

10                   With respect to the water quality  
11 requirements of resident aquatic life in the Missouri  
12 River, the NRC study states that sediments are important,  
13 for example, as foundational materials for islands and  
14 sandbars that in turn provide animal and plant habitat.  
15 In other words, sediment forms the very bounds by which  
16 the fish and wildlife survive.

17                   These natural, chemical and physical  
18 conditions of the Missouri River are vastly different than  
19 what they once were. The NRC study stated that the main  
20 stem Missouri River historically carried a large sediment  
21 and nutrient load that was important to the evolution and  
22 survival of native flora and fauna.

23                   At the May 2nd meeting, I showed slides  
24 which depicted the history of the Missouri River and the  
25 huge amount and rapid pace at which this natural river

1 alluvium was trapped by the bank stabilization and  
2 navigation project. Sediment is a critical component of  
3 the natural, chemical and physical condition in the  
4 Missouri River and needs to be taken into consideration  
5 when determining whether the remobilization of trapped  
6 sediments should be authorized.

7                   In summary, the purpose of the project is  
8 for shallow water habitat creation. There is no double  
9 standard when it comes to these projects. The NRC study  
10 dismisses the allegations that these projects have a  
11 significant effect on gulf hypoxia, and sediment is a  
12 critical component of the natural, chemical and physical  
13 condition of each specific water body, and the associate  
14 water quality requirements of its resident aquatic life  
15 need to be considered when making a decision on this  
16 project.

17                   With that said, I look forward to hearing  
18 from everyone today. Perhaps the most important comments  
19 we can receive today are those within the purview of the  
20 Clean Water Commission, the Department of Natural  
21 Resources, and those benefits and impacts that occur  
22 locally and to the state of Missouri's water quality.

23                   Also, in an effort to ensure full  
24 transparency, we've placed a question box, as Dr. Hunter  
25 alluded to, in the back of the room. Please submit your

1 written questions, and my staff will answer them at the  
2 conclusion of the meeting today. As you know, there are  
3 many people have come here today to speak. If anyone is  
4 not afforded that opportunity, I'd like to remind everyone  
5 that we have extended the comment period 60 days, an  
6 unprecedented decision for this sort of action in the  
7 Kansas City district, and we're accepting written comments  
8 until June 30th.

9 Thank you, Dr. Hunter. Thank you to the  
10 Commission, and thanks to the public for coming out today.  
11 I appreciate it.

12 CHAIRMAN HUNTER: Thank you very much,  
13 Colonel Hofmann.

14 Next we will hear from any public officials  
15 who may be present today. Now, I have a listing of those  
16 who signed with cards, and I will read those and allow  
17 them time to comment, and then if there is anyone else  
18 here who is an elected official or represents an elected  
19 official, if you'll please let me know, we will let you  
20 comment also.

21 Are there any tribal representatives  
22 wishing to speak today?

23 First commenter is Brian Klippenstein, who  
24 represents Senator Blunt.

25 MR. KLIPPENSTEIN: I'll wait, Dr. Hunter,

1 for the public.

2 CHAIRMAN HUNTER: Brian defers. Next we  
3 have Naomi Voss, who represents Congressman Sam Graves.  
4 Naomi, did you wish to make a statement?

5 MS. VOSS: I'm just here for Sam.

6 CHAIRMAN HUNTER: No. And next we have  
7 Donna Spickert representing Congresswoman Vicky Hartzler.

8 MS. SPICKERT: Yes. Thank you. The  
9 Congresswoman has already sent and signed the letter.

10 CHAIRMAN HUNTER: Thank you very much. Dan  
11 Engemann representing --

12 MR. ENGEMANN: Good morning. Congressman  
13 Luetkemeyer's also been very clear on this subject,  
14 sent several letters on the topic.

15 CHAIRMAN HUNTER: Thank you, Dan. Next we  
16 have Brian Munzlinger.

17 SENATOR MUNZLINGER: It's nice to see  
18 several members of the committee. For your information,  
19 Senator Brian Munzlinger, but I'm here today mostly as a  
20 farmer from northeast Missouri.

21 As a farmer, I've been very involved in  
22 trying to reduce erosion and runoff, and, you know, I'm  
23 real tired of agriculture getting the blame for the  
24 hypoxia in the Gulf of Mexico. And for that reason, I'm  
25 going to make my comments very brief because I know we've

1 got some very good commenters coming up, but I certainly  
2 would hope that you-all would look and approve  
3 Alternative 3.

4 Like I say, I know that we've got some very  
5 good people going to testify. So with that, urge your  
6 careful decision in this matter.

7 CHAIRMAN HUNTER: Thank you, Brian. Next  
8 we have Kathy Kunkel.

9 MS. KUNKEL: Good morning, members of the  
10 Commission and Colonel Hofmann. I'm Kathy Kunkel. I'm an  
11 elected official locally. I'm the county clerk in Holt  
12 County, Missouri. I drove here down from the northwest  
13 corner today to share with you our concerns about  
14 specifically the Jameson Island project and how it would  
15 affect other mitigation sites that are occurring within my  
16 county.

17 Some of you may not know the history  
18 specifically recently in Holt County dealing with the 2011  
19 flooding. We have numerous mitigation sites in our county  
20 from Deroin Bend at the Atchison and Holt County line  
21 through Wolf Creek Bend at the southern portion of the  
22 county.

23 We have over 52 documented breaches in the  
24 county. 32 of those are in the Corps managed levees. The  
25 rest are private or local non-federal, non-participatory

1 levees. And in many of those cases there are concerns  
2 with the pallid sturgeon chutes and their design flaws  
3 that have allowed water to come nearer to the levee system  
4 and cause levee breach and degradation. Certainly there's  
5 concern from the levee members in my community as well as  
6 the elected officials that continued work allowing for  
7 dirt to be put into the river and broadening and expanding  
8 these chutes is of ongoing concern to us.

9                   We are continuing to work with Colonel  
10 Hoffmann, the Kansas City District, as well as the Omaha  
11 District, to make some adjustments and some changes and  
12 look at some pilot projects in our area to look at some  
13 new thinking for these projects.

14                   But at the time that this process is in  
15 front of you to make a decision whether or not the Corps  
16 will be continued to allow to take these chutes and put  
17 the sediment fill into the river, I want to go on record  
18 as saying that we do not agree with that.

19                   We need to go back to the basics. We need  
20 to look at the science and valuable science that we have  
21 as well as the independent science panel review of the  
22 MRRIC program which says that these chutes have had zero  
23 impact on the pallid sturgeon. We need to go back and  
24 take a look at what's going on with these chutes before we  
25 allow more sediment to go into the Missouri River.

1 Thank you.

2 CHAIRMAN HUNTER: Kathy, could I ask one  
3 question?

4 MS. KUNKEL: Absolutely.

5 CHAIRMAN HUNTER: When you say we need to  
6 go back to the basics, are you recommending one  
7 alternative or another here?

8 MS. KUNKEL: In this particular piece, I  
9 would offer Alternative 3 with a second caveat that we  
10 need to go back and we need to move that sediment and soil  
11 away from the entire mitigation project and put it in  
12 someplace that's available in Howard County for good  
13 seeded and sediment fill that would not allow it to travel  
14 into the river system.

15 CHAIRMAN HUNTER: Thank you. Anyone else  
16 have questions for Kathy?

17 MS. KUNKEL: I realize that's not an  
18 alternative that's on the books, but I think --

19 CHAIRMAN HUNTER: We're open to all  
20 suggestions.

21 MS. KUNKEL: Thank you, folks.

22 CHAIRMAN HUNTER: Thank you. Are there any  
23 other state elected officials here today that wish to  
24 comment? Brian?

25 THE REPORTER: I'm sorry. I couldn't hear

1 what he said back there.

2 CHAIRMAN HUNTER: He said he would wait.

3 CHAIRMAN HUNTER: Are there any  
4 representatives of federal agencies wishing to speak  
5 today? Yes.

6 MR. BELL: Tom Bell, U.S. Fish and Wildlife  
7 Service.

8 CHAIRMAN HUNTER: Would you like to  
9 comment?

10 MR. BELL: Sure. My name is Tom Bell. I'm  
11 the refuge manager for the Big Muddy National Fish and  
12 Wildlife Refuge, which is a division of the U.S. Fish and  
13 Wildlife Service.

14 CHAIRMAN HUNTER: Tom, did you fill out a  
15 card?

16 MR. BELL: Yes, I did.

17 CHAIRMAN HUNTER: Go ahead.

18 MR. BELL: I'd like to read a statement  
19 into the record. First, I want to thank the Commission  
20 for having this hearing, Dr. Hunter, the Commission  
21 members, Colonel Hofmann. Appreciate this opportunity.

22 The U.S. Fish and Wildlife Service has been  
23 a longstanding conservation partner with states, other  
24 federal agencies, tribes and private interests along the  
25 Missouri River. Since the initial work on dams and the

1 navigation channel, the service has collaborated with  
2 these partners to ensure that the American public may  
3 continue to enjoy fish and wildlife resources that depend  
4 on the river and the communities along it.

5                   We appreciate the opportunity to provide  
6 these comments today because we believe the proposed  
7 channel extension is the type of project that's critical  
8 to our long-term conservation objectives along the river.

9                   The service strongly recommends  
10 Alternative 4 proposed Jameson Island side channel  
11 extension project as the best option to achieve both the  
12 aquatic and terrestrial habitat objectives for the Big  
13 Muddy National Fish and Wildlife Refuge and significantly  
14 contribute to our cumulative restoration needs along the  
15 river.

16                   The creation of an additional mile of  
17 meandering side channel, a rare commodity on the highly  
18 engineered Missouri River, is an important step in our  
19 long-term efforts towards a sustainable system. Side  
20 channels along the river are important in providing  
21 habitats that cannot be found along the main channel at  
22 the same flows. They can act as refuges from the strong  
23 currents in the main channel. They allow native fishes a  
24 less energetically demanding pathway for migration in an  
25 otherwise highly efficient navigation channel. They are

1 also thought to provide seasonal temperature refuge from  
2 the main channel.

3                   Fisheries monitoring from Sioux City to  
4 St. Louis has shown the importance of these habitats to  
5 rare native fishes. Service biologists were the first to  
6 document larval pallid sturgeon in the lower river in the  
7 Lisbon chute immediately upstream from the Jameson Island  
8 project.

9                   Work in Nebraska has shown side channels to  
10 be particularly important to native river chubs and  
11 several other species of large river obligates that have  
12 become very rare in the last two decades. Side channels  
13 have also shown to have greater catch per unit effort in  
14 species diversity than sites in the main channel.

15                   Alternative 4 will also improve and  
16 diversify habitat for floodplain dependant fish and  
17 wildlife on the Jameson Island unit. Of the alternatives,  
18 Alternative 4 clearly offers the approach of creating this  
19 rare habitat type as the least disruptive to existing  
20 wetlands and bottomland forest.

21                   Alternative 4 would require minimal  
22 clearing and floodplain fill. It reduces impacts of  
23 construction and avoids permanent placement of spoil in  
24 the floodplain. This not only allows lateral connection  
25 between the chute and the adjacent floodplain, which is so

1 important for fish access to floodplain nursery areas, but  
2 also minimizes obstacles to conveyance of floodwaters  
3 through the site.

4                   Alternative 4 will also reestablish  
5 long-absent and currently rare dynamic riverine processes  
6 to a relatively small area of public land. These  
7 processes are key elements in supporting species of big  
8 river fish and wildlife that are in serious decline. The  
9 current consensus among big river scientists is that some  
10 level of both river form and function is essential to  
11 address the needs of the big river species of fish and  
12 wildlife.

13                   The Commission has been provided detailed  
14 information on this project and there will be more  
15 testimony today. I won't repeat any of that. Service  
16 trust resources, fish and wildlife and their habitats  
17 require a high quality habitat, both aquatic and  
18 terrestrial, and a fundamental part of our missions is to  
19 work with others to help provide these conditions.

20                   The service has a specialized branch of our  
21 agency focused specifically on contaminants to address  
22 threats to fish and wildlife and the environment. The  
23 service is committed to ensuring the actions we undertake  
24 do not degrade the environment but rather replace degraded  
25 areas with a more intact, healthy and sustainable system.

1                   To that end and in response to concerns  
2 raised previously regarding the Jameson Island project, we  
3 fully supported and encouraged the Corps focus robust  
4 water quality monitoring plan for this and similar  
5 projects. Rather than conjecture, we now have data to  
6 evaluate the potential effects of this work to the  
7 adjacent river reach as well as the larger river.

8                   Service believes these data show no threats  
9 to water quality. There have been no documented  
10 exceedances of any Missouri water quality standard that we  
11 are aware of. We believe this shows that these activities  
12 can be carried out in a way that truly benefits our trust  
13 resources, the river and the communities that live along  
14 it.

15                   We are committed to working with the Corps  
16 to ensure appropriate monitoring and coordination with our  
17 conservation partners is an integral part of every project  
18 we undertake on the river.

19                   Lastly, we believe it is important to step  
20 back and understand why we're creating chutes, widening  
21 the river, acquiring land and working with partners to  
22 provide habitats along the river. The Missouri River is a  
23 dynamic system. Construction of the dams and navigation  
24 channel greatly altered hundreds of thousands of acres of  
25 habitats that used to regularly flood, dry out, erode,

1 deposit and, in fact, the main channel moved frequently.  
2 Not only are fish and wildlife dependent on those habitats  
3 and processes, but the communities that live and work  
4 along the river also share in the benefits that the river  
5 provided.

6                   This project as described in Alternative 4  
7 contributes a meaningful portion of the natural processes  
8 critical to a sustainable river. We believe a long-term  
9 solution to address these important habitat issues is a  
10 systematic approach to both the water and sediment in the  
11 river and how we collectively manage them.

12                   Alternative 4 is an important step in a  
13 very long journey to ensure a sustainable Missouri River.  
14 We must recognize the future of the river will not be like  
15 the past. This dynamic river continues to challenge us,  
16 and we must work together to put in place a framework and  
17 projects that provide for robust fish and wildlife  
18 conservation along the river and vibrant communities to  
19 enjoy them.

20                   I have a written copy to provide you, and  
21 I'll be here 'til the close of the hearing if you have  
22 questions now or later.

23                   CHAIRMAN HUNTER: And you have submitted a  
24 copy of the written comments. Thank you, Tom.

25                   MR. BELL: Thank you.

1                   CHAIRMAN HUNTER: Now, are there any state  
2 agency representatives wishing to speak? Are there local  
3 elected officials or agencies wishing to speak?

4                   At this point, we would like to open the  
5 hearing to individual commentators, which I want to point  
6 out there are over 20 that would like to speak. Because  
7 of that, we would like to remind you, could you please  
8 keep your comments to five minutes or less.

9                   Our first commentator is Kristin Perry from  
10 Bowling Green.

11                  MS. PERRY: I promise I will be much  
12 shorter today than last time. My name is Kristin Perry.  
13 I was chair of the Clean Water Commission when we  
14 unanimously passed the order that the Corps dump the --  
15 that the Corps stop dumping the soil from the projects  
16 into the river.

17                  I'd like to point out, Colonel Hofmann made  
18 a comment that the Corps plan for Alternative 3 was to put  
19 two 14-foot-high mounds, and he seemed to say that that  
20 was required by the order. The order passed by the  
21 Commission says, the soil shall for all shallow water  
22 habitat construction projects be put to beneficial reuse  
23 consistent with this order and be placed on land. The  
24 specifics of how that be done is not dictated by this  
25 order.

1                   Now, we're -- and the only alternative that  
2 they gave us, which is before us right now, where they  
3 kept it on the land was their idea of 14 feet high, and  
4 now they say that won't work. I think they can come up  
5 with a method that will work if you direct them to do so.

6                   Okay. Remember, 70 percent of the people  
7 in the state of Missouri voted to tax themselves for soil  
8 and water conservation. 70 percent of the people in the  
9 state are willing to pay money to keep soil out of the  
10 water.

11                   What has changed since 2008? The law has  
12 become more stringent. In the fall of 2008 we passed the  
13 anti-degradation rules, and I don't think I heard anything  
14 how that will comply with those rules. Frankly, it's  
15 74 pages, and I went through it, and as an attorney, I  
16 don't see how this phosphorus levels, if you use regular  
17 standard water quality testing methods and not their  
18 elutriate testing, which is not a standard testing method  
19 for phosphorus, total phosphorus in the water, I don't see  
20 how it can comply with the anti-degradation rules. And  
21 you do make all of the citizens of Missouri comply with  
22 those rules.

23                   You might notice that EPA's not here, and  
24 at the time we asked -- at the NAS study, we asked for a  
25 statement from EPA saying that this complies with the

1 Clean Water Act. There is a federal position paper where  
2 the Corps agreed to comply with the Clean Water Act, but  
3 there is no statement anywhere from EPA that this project  
4 and dumping the water in does, in fact, comply. And as  
5 you know, I pretty strongly maintain that it does not  
6 because everybody else has a different set of rules.

7                   You have -- in the last couple of years,  
8 this Commission has approved a whole bunch of TMDLs where  
9 the pollutant is sediment, and they run into the same  
10 Mississippi River that this soil from the Missouri River  
11 will.

12                   Alternative 3 gives everyone what they want  
13 most, to build the projects, the soil will be saved, and  
14 the law will be equally enforced. Please adopt  
15 Alternative 3 or some way in which the soil can be kept  
16 out of the water. It's the just thing to do. It is the  
17 mandate of this Commission to enforce policy that is equal  
18 and complies with the Clean Water Act. Please do not  
19 succumb to Corps pressure to do otherwise.

20                   Thank you very much.

21                   COLONEL HOFMANN: Ms. Perry, and for the  
22 Commission, if I may, I don't have a specific question for  
23 you. I do have a comment since you mentioned my  
24 commentary. My comments simply shed light on the two  
25 15-foot-high stockpiles, not 14-foot-high.

1                   Likewise, I did not say in my comments that  
2 a 15-foot-high berm was, quote, unquote, required by the  
3 order. My comments were simply shedding light on  
4 Alternative 3 and giving a picture of what Alternative 3  
5 looks like. Thank you.

6                   CHAIRMAN HUNTER: Next we have Blake Hurst  
7 representing Missouri Farm Bureau.

8                   MR. HURST: Good morning. My name is Blake  
9 Hurst, and I'm president of Missouri Farm Bureau. We have  
10 members in every county of the state, thousands of whom  
11 are directly affected by changes in management of the  
12 Missouri River.

13                   I thank the members of the Missouri Clean  
14 Water Commission and the U.S. Army Corps of Engineers for  
15 their decision to hold this public hearing and for the  
16 decision to extend the comment period. This is an  
17 important meeting, and you have a critical decision to  
18 make.

19                   Your actions will not affect just Jameson  
20 Island, but also the construction of future chutes in  
21 Missouri. You're setting a precedent that goes far beyond  
22 the box you've been put in today. Jameson Island chute  
23 must be relined -- must be realigned to prevent further  
24 damage, but we strongly oppose the dumping of sediment in  
25 the river.

1                   Furthermore, the conditions associated with  
2 any permit should be consistent from one project to  
3 another. Let me be clear. Our organization has very  
4 serious reservations about the effectiveness of the  
5 chutes. There's not a consensus within the scientific  
6 community that they enhance the pallid sturgeon  
7 population. This is simply an expensive experiment that  
8 contradicts common sense.

9                   At what point do we ask ourselves if the \$4  
10 million cost of this project is justified, or is the \$3  
11 billion cost of Missouri River recovery program so  
12 important that every American should contribute nearly \$10  
13 apiece. The chutes do not stimulate fish, nor should we  
14 be shouldered with a fish stimulus package.

15                   Missouri Farm Bureau was a leader in  
16 efforts to gather enough signatures to place the soil and  
17 water tax on a statewide ballot in 1984. The sales tax  
18 was approved in 1988, 1996, and more than 70 percent of  
19 voters approved the measure in 2006. The program is a  
20 resounding success with an estimated 148 million tons of  
21 soil saved since its inception.

22                   On May 22, the National -- 22nd, the  
23 Natural Resources Conservation Service issued a press  
24 release saying that the U.S. Department of Agriculture and  
25 its partners plan to invest \$32 million in Mississippi

1 River basin water quality and wetlands projects. The  
2 money to be spent this year in financial and technical  
3 assistance will, and I'm quoting here, prevent sediments  
4 and nutrients from entering waterways, decrease flooding  
5 and improve bird and fish habitat.

6           The USDA and the commonwealth of  
7 Pennsylvania recently finalized plans to increase the  
8 ceiling in the Conservation Reserve Enhancement Program in  
9 an effort to help reduce sediment and nutrient loadings  
10 from farmland into the rivers and streams of Pennsylvania.

11           Let's be clear here. There's a pattern.  
12 Federal and state government, landowners and even  
13 taxpayers are taking steps to reduce sediment loadings  
14 while this project will intentionally increase them. It  
15 is impossible to justify adding or integrating through  
16 natural river processes approximately a million cubic --  
17 excuse me -- a billion cubic -- million cubic yards of  
18 soil for the Missouri River from this project.

19           I have already expressed concerns about the  
20 cost of constructing the chutes, but it's also important  
21 to recognize the cost of maintaining the projects. How  
22 can we support the construction of new chutes when the  
23 bank stabilization and navigation program is under-funded  
24 on an annual basis? And finally, can maintenance funds be  
25 assured given the uncertainty of annual federal

1 appropriations process?

2 Our preferred alternative would be able to  
3 close the existing chute at the top and to eliminate any  
4 further work on this project. Since that is not on the  
5 table, I strongly urge the Commission to approve  
6 Alternative 3. This will ensure the soil is side cast and  
7 not pumped to the Missouri River.

8 Again, I thank you for the opportunity to  
9 comment. Be glad to answer any questions.

10 COMMISSIONER WARREN: Mr. Hurst, I do just  
11 have a quick question for you. Do you feel all rivers and  
12 streams are equal as far as their flow rate and sediment  
13 load throughout the country?

14 MR. HURST: Clearly a stream as big as  
15 Missouri is more important than smaller streams in other  
16 parts of the state. This is -- this is our river. This  
17 is the focus of our concern right now.

18 COMMISSIONER WARREN: It is a shared river.  
19 You quoted some studies from Pennsylvania, other parts of  
20 the country, et cetera. So do rivers have individual  
21 characteristics one from another, would you say?

22 MR. HURST: Sure, there's differences  
23 between rivers.

24 COMMISSIONER WARREN: And I think maybe not  
25 everybody agrees that this is a wasteful project. Some

1 people do feel that preservation and protection of our  
2 fish and our wildlife is very important to not only our  
3 quality of life but the quality of future generations. So  
4 I just was reacting to fish stimulus package comment.

5 MR. HURST: Well, I mean, granted it's  
6 important to conserve fish. Our question is whether this  
7 does that. I mean, our goal here is to improve -- is to  
8 improve the numbers of pallid sturgeon, and we've looked  
9 in vain for a scientific study that says this kind of  
10 project does that.

11 And so we're going to spend over \$100,000  
12 an acre on the habitat in this project, and that seems to  
13 be extraordinarily expensive for a goal that we're not  
14 sure is going to be reached.

15 COMMISSIONER WARREN: And it is hard to  
16 increase population without habitat. That really has to  
17 be essential to the first step to see an increase in  
18 population. So just maybe a little different perspective  
19 about not everybody feels that preservation of habitat and  
20 establishment of habitat for fish and wildlife is less  
21 than viable.

22 MR. HURST: Thank you.

23 COMMISSIONER COWHERD: Mr. Hurst, I just  
24 have a couple of questions for you. And I appreciate you  
25 coming here on behalf of the Farm Bureau. What is your

1 title with them?

2 MR. HURST: I'm president.

3 COMMISSIONER COWHERD: You're president?

4 MR. HURST: Uh-huh.

5 COMMISSIONER COWHERD: Again, I appreciate  
6 you being here and taking your time to be here.

7 I'm a little confused. You mentioned that  
8 there's no scientific study that these projects help these  
9 endangered fish populations, and I think Mr. Bell  
10 indicated there was. So I'm going to try to --

11 MR. HURST: If you'll listen very carefully  
12 to what Mr. Bell said, he said that it improves the  
13 population of fish, but he did not mention pallid  
14 sturgeon.

15 AUDIENCE MEMBER: Yeah, he did.

16 MR. HURST: Did he? I apologize.

17 COMMISSIONER COWHERD: Well, I'll let him  
18 speak for himself, I guess. Do you have, I guess,  
19 citations for these scientific studies or sources that we  
20 can look at? Because I'm not familiar with this as far as  
21 the studies.

22 MR. HURST: I'll be glad to get those for  
23 you.

24 COMMISSIONER COWHERD: All right.  
25 Appreciate it. Now, as far as other projects, have there

1 been other Jameson-type projects along the Missouri River  
2 that we can look at that you're aware of, shallow water  
3 habitat projects?

4 MR. HURST: Yes, there are some.

5 COMMISSIONER COWHERD: Do you know what the  
6 success or failure of those have been or what the  
7 perception is of Farm Bureau of those other projects?

8 MR. HURST: Our feeling would be that they  
9 have not been worth the public resources expended on them.  
10 That's obviously a value judgment.

11 COMMISSIONER COWHERD: I understand. And I  
12 assume that's because, from your perspective, there's been  
13 no significant increase in the sturgeon population from  
14 those projects?

15 MR. HURST: Yes, sir.

16 COMMISSIONER COWHERD: I guess that's all  
17 the questions I have. Thank you. I appreciate your time.

18 MR. HURST: Thank you.

19 CHAIRMAN HUNTER: Thank you, Blake. Next  
20 is Mendell Elson. You represent Miami Levee District  
21 No. 1; is that right?

22 MR. ELSON: Yes, sir. And Missouri Levee  
23 and Drainage. I'm a member of Missouri Levee and Drainage  
24 District.

25 You know, primarily just as an American

1 farmer and someone that has -- that farms ground that has  
2 been in our family for four generations, I'm concerned  
3 about the viability and sustainability of farming on some  
4 of the most fertile ground in our state. You know, the  
5 public in general is concerned about high food prices and  
6 those kind of things, and, you know, we're not doing all  
7 we can to produce at 100 percent capacity of some of our  
8 most fertile ground.

9 I don't want to deviate too much from the  
10 project, but, you know, I mean, it's -- farming in America  
11 is an important source of food and national security.

12 I would also question the actual scientific  
13 proof that these sort of projects are worth their cost. I  
14 farm. I enjoy wildlife. I hunt. I fish. I'm no way  
15 opposed to anything that is beneficial to those types of  
16 things, but I think that, you know, taking care of our  
17 population and our people in America and feeding our  
18 country as well as other parts of the world should merit  
19 and be weighted in this decision.

20 If the project moves forward, I support  
21 Alternative 3, and would also ask that Alternative 3 be  
22 amended so that the soil broadcast onto the floodplain be  
23 seeded to prevent further erosion. Thank you.

24 CHAIRMAN HUNTER: Thank you, Mendell. Next  
25 we have Dale Ludwig.

1                   MR. LUDWIG: Good morning. I'm Dale  
2 Ludwig. I represent the Missouri Soybean Association. I  
3 want to say thanks for the opportunity to come and comment  
4 here this morning.

5                   I would like to start by submitting  
6 something over 200 comments that basically say we support  
7 Alternative 3 and oppose Alternative 4. So I'll submit  
8 those at this time.

9                   CHAIRMAN HUNTER: Thank you.

10                  MR. LUDWIG: I'd like to go on record with  
11 the Missouri Soybean Association supporting the comments  
12 that Blake Hurst made with farm Bureau, and I won't --  
13 I'll keep this pretty brief. But I did listen with  
14 interest at the Colonel's comments on being utterly  
15 ridiculous that dumping soil in the river would have no  
16 effect on hypoxia. I also listened with interest as the  
17 agency's comments said that it wouldn't have effect on  
18 water quality.

19                  I think if we let common sense be our  
20 guide, dumping this amount of soil in a river will have an  
21 effect on water quality, and how can it not have some sort  
22 of effect on the hypoxia?

23                  With that said, again, let common sense be  
24 our guide. We support Alternative 3. Let's use that soil  
25 to actually repair some of the damage that's been done in

1 previous floods. So our position again would be we  
2 support Alternative 3 and oppose Alternative 4. Be happy  
3 to answer any questions you might have.

4 COLONEL HOFMANN: Mr. Ludwig, if I might  
5 make a correction to that. My statement was not in  
6 reference to gulf hypoxia. The statement I made, quote,  
7 unquote, the National Academy of Science started under the  
8 Lincoln administration in 1863. Questioning the integrity  
9 of this body given its longstanding history and reputation  
10 is utterly ridiculous. That was my statement. I wasn't  
11 talking about gulf hypoxia. Thank you.

12 MR. LUDWIG: Thank you, Colonel. Any other  
13 questions? Thank you for the opportunity to comment.

14 CHAIRMAN HUNTER: Thank you, Dale. Next is  
15 Steve Mahfood.

16 MR. MAHFOOD: Good morning, Mr. Chairman,  
17 committee members. My name is Steve Mahfood, and I'm here  
18 representing the Nature Conservancy and the Missouri  
19 chapter of the Nature Conservancy. You probably know the  
20 Nature Conservancy is a leading conservation organization.  
21 It's been around about 60 years. Been around 50 years  
22 here in Missouri, with over 13,000 members spread all over  
23 our state.

24 Now, everything we do is rooted in best  
25 available science and pragmatic non-confrontational

1 solutions. That's the basis of how the Nature Conservancy  
2 works. We work hard to build bridges, we work hard to  
3 build coalitions, and we try to make things work  
4 regardless of the disparate opinions.

5           The case of Missouri River restoration,  
6 river management decisions must be made using best  
7 available science with the goal of sustainability of the  
8 river and its watershed from both a biological and an  
9 economic productivity perspective.

10           For the Nature Conservancy, the report by  
11 the Natural Resource -- the National Research Council on  
12 the Missouri River clearly delineates a framework of river  
13 function, post-settlement alterations and conservations,  
14 outlines all that information, and then outlines important  
15 data gaps that need to be addressed and really provides,  
16 though, a way forward for Missouri River restoration and  
17 defining opportunities on how we might do that, working  
18 with the people that live in the riverine system.

19           But most importantly, the report indicates  
20 that the proposed activities, Jameson Island, are  
21 compatible with overall river management and recovery  
22 goals. We strongly support the report's recommendations  
23 that continued monitoring is absolutely necessary to  
24 address uncertainties and maximize learning opportunities  
25 that will guide future management activities.

1                   We understand very well that nutrient and  
2 sediment issues remain critical for river and gulf health.  
3 As the report makes clear, targeted restoration and  
4 recovery activities aimed at long-term river system health  
5 and function, such as the Jameson project, are very  
6 appropriate and important.

7                   However, we do not support blanket  
8 non-targeted exemption from sediment and nutrient control  
9 issues. It's not appropriate.

10                  To be clear, regarding the issues that  
11 you're having to address here today, a statement in the  
12 National Research Council report best describes the right  
13 approach to the Jameson project. I really didn't want to  
14 read this, but I'm going to after listening to all the  
15 comments.

16                  Very quickly, the statement says in the  
17 report, all actions by the Corps of Engineers that  
18 discharge sediment to the Missouri River either during  
19 project construction or through erosion following  
20 construction should be subjected to monitoring  
21 requirements for sediment physical and chemical  
22 characteristics. This monitoring should be conducted to  
23 ensure that sediment or other pollutants discharged to the  
24 river comply with applicable water quality criteria.

25                  We find that this is the right project at

1 the right time, but we must monitor, monitor closely this  
2 project so that we can learn from this project, and then  
3 from that be able to make decisions and create  
4 opportunities in the future that will only improve the  
5 system and address comments that you've heard already here  
6 today.

7                   Given this background, we support your  
8 difficult efforts in making a decision about this and ask  
9 that you consider that the National Research Council  
10 report is going in the right direction and provides the  
11 best guidance for our organization, since we're again  
12 science based and that's how we see things.

13                   So thank you for the opportunity to speak  
14 to you today, and good luck with this decision.

15                   COMMISSIONER LEAKE: Steve, who are you  
16 quoting when you quote that?

17                   MR. MAHFOOD: That's right out of the  
18 National Research Council.

19                   COMMISSIONER LEAKE: National Research  
20 Council?

21                   MR. MAHFOOD: Yeah. The report that people  
22 are referring to here. Makes it very clear, although they  
23 provide support for the Jameson project, it's not a free  
24 pass. It's you must monitor, and that's what gives us  
25 strong support.

1                   COMMISSIONER LEAKE: I just was not clear  
2 on where it came from.

3                   COMMISSIONER COWHERD: So you support the  
4 Corps' request to do Alternative No. 4?

5                   MR. MAHFOOD: Basically, but that's not  
6 really -- we're not really going in that direction, but  
7 that's where the National Research Council report, that's  
8 where it winds up, so that's what we're supportive of.

9                   COMMISSIONER COWHERD: I understand.

10                  MR. MAHFOOD: If they hadn't performed the  
11 NRC report and we were sitting here, we would not have --  
12 we would not have a recommendation because we're not going  
13 to do the Corps' work and they wouldn't expect us to.

14                  COMMISSIONER COWHERD: Okay. Thank you.

15                  CHAIRMAN HUNTER: Do they have any  
16 suggestions about what to do? I mean, monitoring is fine,  
17 but if it doesn't -- if it's not supported with  
18 alternatives --

19                  MR. MAHFOOD: Well, the project, the  
20 Jameson Island project from the scientific perspective is  
21 both an appropriate project and a good place to start.  
22 It's not too large. It's not too small. It provides the  
23 kind of scientific information and real impact as the  
24 National Research Council report has outlined.

25                  So we're supportive of that project, but

1 we're also -- the key thing that you'll see with the  
2 Nature Conservancy is we really think it's important for  
3 the, we think for the economic health of our state and our  
4 country to carry these kinds of activities forward in the  
5 entire Missouri River system. Restoration is a key  
6 component to a lot of different things.

7 CHAIRMAN HUNTER: So you would say, then,  
8 that, in your opinion, Jameson Bend is an experiment?

9 MR. MAHFOOD: In some respects you might  
10 call it that, but we think it's a project that needs to be  
11 done. How do you move forward in science without  
12 attempting best available -- using the best available  
13 science and crafting a project that addresses so many  
14 different needs?

15 And after listening to how people feel that  
16 live along that river system, you've reacted by calling  
17 this hearing, by extending comment periods and affording  
18 people the opportunity to tell you how they feel. We  
19 would say at the Nature Conservancy that's the right way  
20 to do business, but also that we believe that the science  
21 behind this project is good, but science, as you know, is  
22 ever changing. New facts come to light. New things  
23 happen.

24 So we believe this is a good project,  
25 should be done, but you must monitor and make sure that it

1 meets the goals and objectives laid out by the Corps and  
2 by the National Research Council.

3 CHAIRMAN HUNTER: Thank you, Steve.

4 COMMISSIONER COWHERD: Steve, I asked  
5 Mr. Hurst this kind of same question. Are there other  
6 shallow water habitat projects that the National  
7 Conservancy has observed or monitored, seen the effects  
8 of?

9 MR. MAHFOOD: There's quite a few in other  
10 states and along the Mississippi River. There's a great  
11 rivers partnership that the Nature Conservancy is part of,  
12 20 major rivers around the world. Different countries and  
13 activities have been joined together, and the Caterpillar  
14 company funded the Nature Conservancy to look at the  
15 Mississippi River and to start developing shallow water  
16 habitat projects and work their way up so -- up the river  
17 on these projects, and many of them have been very  
18 successful, especially on the tributary streams and now  
19 we're starting to move more into the -- into the main body  
20 of the river systems.

21 The Illinois River's got a number of  
22 projects, as an example, close by that have been very  
23 successful in their shallow water habitat restoration.

24 COMMISSIONER COWHERD: Thank you.

25 MR. MAHFOOD: Thank you, Mr. Chairman.

1                   CHAIRMAN HUNTER: Next is Tom Waters.

2                   MR. WATERS: Good morning. My name is Tom  
3 Waters. I serve as the chairman of the Missouri. Levee  
4 and Drainage District Association. Our association  
5 represents levee and drainage districts, businesses,  
6 associations and individuals interested in activities  
7 surrounding Missouri River and its tributaries.

8                   I want to thank the Clean Water Commission  
9 and the Army Corps of Engineers for holding this important  
10 hearing this morning.

11                   The \$4.2 million Jameson Island water  
12 habitat -- shallow water habitat project is an example of  
13 government at its worst. The United States Fish and  
14 Wildlife Service is forcing the Army Corps of Engineers to  
15 create thousands of acres of shallow water habitat with a  
16 target of nearly 12,000 acres of shallow water habitat in  
17 Missouri alone.

18                   While the fish and wildlife sit back and  
19 watch us, Corps of Engineers is under attack for proposing  
20 to dump dredged soil material directly into the Missouri  
21 River, an activity which is in violation of the Clean  
22 Water Act and an order from the Missouri Clean Water  
23 Commission.

24                   In effect, the Fish and Wildlife Service is  
25 forcing the Corps of Engineers to break the law, and the

1 Corps of Engineers is in turn asking the Missouri Clean  
2 Water Commission to allow them to break the law. To date,  
3 the Missouri Clean Water Commission has stood its ground  
4 and refused to allow the Corps to dump the spoils, which  
5 are clearly a pollutant under the Clean Water Act.

6 Our association fully supports the current  
7 order of the Missouri Clean Water Commission, and today  
8 we're asking the Commission to keep the order in place.

9 I want to be very clear on just a couple of  
10 points. First, the Missouri Levee and Drainage District  
11 Association is in favor of the project outlined in the  
12 Corps' EIR. We believe the work needs to be done, but it  
13 needs to be done correctly and legally.

14 Our association actually requested the work  
15 to be done. In a letter dated December 3rd, 2010, we told  
16 Colonel Hofmann the outlet needs to be modified to direct  
17 outflow downstream and away from the opposite river bank.  
18 A control structure needs to be placed in the upper end of  
19 the chute to control the flow of water entering the chute.

20 On January 12th, members of the association  
21 and I presented information to the Missouri Clean Water  
22 Commission regarding our concerns with the erosion taking  
23 place across from the Jameson Island chute. Following the  
24 meeting, the Commission sent a letter to Colonel Hofmann  
25 on January 24, 2011 stating, and I'm quoting, the

1 Commission believes the repair work that needs to be done  
2 to the Jameson Island chute can be done without violating  
3 the March 12, 2008 order of the Commission.

4 I've attached copies of these  
5 correspondence and would like them entered into the formal  
6 record of today's hearing.

7 The failure of the Corps to get the inlet  
8 structure in place has had severe consequences. The  
9 Jameson Island chute is no longer a shallow water chute.  
10 We've heard reports of the chute now being 20 to 30 -- or  
11 25 to 30 foot deep in places. Too much water is entering  
12 the chute, which has hampered towboats navigating the main  
13 channel near the Jameson Island location.

14 Water discharging the chute at the  
15 downstream outlet continues to threaten the opposite river  
16 bank and the Howard County levee across the river. This  
17 necessary work is being held up because the Corps of  
18 Engineers continues to press for permission to dump the  
19 pollutants in the river.

20 For years the Corps has been trying to find  
21 a way to get around the Missouri Clean Water Commission  
22 order not to dump soil in the river. They've asked for  
23 studies and waited for members of the Commission to  
24 change. But the fact is, the Commission order is still in  
25 place and it's still a violation of the Clean Water Act to

1 dump contaminants in the Missouri River.

2                   This brings me to my second point. There's  
3 a simple solution to this controversial situation.  
4 Alternative No. 3 found in the PIR calls for the spoils  
5 from the chute to be kept on the land and not dumped into  
6 the river. The Corps of Engineers simply needs to dig the  
7 chute, spread the spoil and seed it down. This will meet  
8 the Clean Water Commission order, prevent the soil from  
9 entering the river and allow the Corps to proceed with the  
10 project.

11                   Spreading the spoil is often done by  
12 farmers cleaning out ditches and by many others who deal  
13 with spoils from various projects. It's not rocket  
14 science. It's an inexpensive way to meet the requirements  
15 of the Clean Water Act and the Missouri Clean Water  
16 Commission.

17                   The U.S. Army Corps of Engineers has some  
18 of the best engineers in the world. It should have been  
19 easy for the Corps to solve this problem. Apparently  
20 instead of asking their engineers to help solve the  
21 construction problems, the project leaders have been  
22 relying on biologists to try to find a way around the  
23 Commission's order and the law.

24                   I continue to wonder why the Corps of  
25 Engineers continue to push for the plan of dumping

1 pollutants in the river when there's such an easy  
2 alternative.

3                   Finally, our association has great concerns  
4 with the direction the Corps of Engineers has taken over  
5 the past few years. The Corps' focus on fish and wildlife  
6 has taken them away from a focus on flood control and the  
7 protection of lives and property.

8                   Clearly some of this is a result of the  
9 U.S. Fish and Wildlife Service desire to manage the river  
10 by insisting the Corps focus on fish and wildlife over  
11 other uses and purposes of the river. Sound river  
12 management has suffered because pressure from the U.S.  
13 Fish and Wildlife prescribes the assignments of much of  
14 the Corps' operations.

15                   Today's hearing presents an opportunity for  
16 Corps leaders to listen to stakeholders and concerns and  
17 respond with a plan which keeps the pollutants out of the  
18 river. We believe the Missouri Clean Water Commission  
19 should keep their order in place and the Corps should  
20 complete the project by spreading the spoils, seeding it  
21 to prevent future erosion in the river.

22                   Thank you for this community to present  
23 comments. Thank you to the Corps for their service to our  
24 country and to you Commission members for your service to  
25 the great State of Missouri. I'll be happy to answer any

1 questions.

2 CHAIRMAN HUNTER: Thank you very much, Tom.

3 COMMISSIONER WARREN: I do have a quick  
4 question. You mentioned about spreading the soil on the  
5 land and seeding, and where will you recommend that that  
6 be done, what land?

7 MR. WATERS: If it was my project, I would  
8 do it along the banks of the chute that they're damming.  
9 I understand Fish and Wildlife has some concern with the  
10 filling of wetlands, but I know there's 1,871 acres that  
11 they own in this Jameson Island area, and I'm certain that  
12 not all of that is wetlands and they could find some place  
13 to deposit that spoil. The main thing is keep it out of  
14 the water.

15 COMMISSIONER WARREN: So you think that  
16 would have no impact on the habitat, the wildlife refuge  
17 to spread that around the Big Muddy Refuge area?

18 MR. WATERS: I think it could be done with  
19 minimal impact, certainly less impact than dumping the  
20 soil in the river would have downstream.

21 COMMISSIONER WARREN: That's based on your  
22 understanding of the -- just the habitat, the agricultural  
23 practices? It seems like a practical thing to do?

24 MR. WATERS: Yeah. I mean, I've seen spoil  
25 spread out of ditches all the time. Levee and drainage

1 districts clean their ditches on a regular basis, spread  
2 the spoil, seed it down. Prevents the erosion. I think  
3 the only concern that I've heard addressed with the spread  
4 of the spoil is the potential of filling the wetlands, and  
5 a simple solution to that is don't put it in the wetlands.  
6 Put it in the higher ground.

7 COMMISSIONER WARREN: Thank you.

8 MR. WATERS: Thank you.

9 CHAIRMAN HUNTER: Thank you, Tom. Next is  
10 Dave Murphy.

11 MR. MURPHY: Good morning, Chairman Hunter,  
12 Colonel, members of the committee. My name is Dave  
13 Murphy. I'm the executive director of the Conservation  
14 Federation of Missouri, one of the largest private citizen  
15 conservation organizations in our state. Been around a  
16 little over 76, almost 77 years, and I can't begin to  
17 count the number of discussions of important issues along  
18 the Missouri River that we've had the privilege of  
19 participating in. I don't suppose any is more poignant  
20 and timely than this one today.

21 I continue to be an optimist, and I  
22 continue to believe that we can find a solution for this  
23 that can both serve the interests of production  
24 agriculture and fish and wildlife. We as a people in  
25 Missouri, it's our belief as an organization we're just

1 not wealthy enough to afford to make that choice, whether  
2 it's one or the other. We need both. The recreational  
3 industry is a huge industry in our state, and all of us  
4 recognize the vital importance of agriculture, me probably  
5 as much as anyone in the room since my family has been  
6 farming in northeast Missouri since 1857. It's something  
7 we care very deeply about, take very seriously.

8 I wish there were easy solutions. I don't  
9 believe there are. And I'm not convinced yet that any of  
10 the four alternatives are perfect. I think our  
11 organization is supportive of Alternative 4 with the  
12 caveat that I still believe there are ways to do this  
13 without putting nutrient rich topsoil into the river  
14 channel. I think that maybe the subsoil could be --  
15 provide the structure that's needed, but I wonder if that  
16 or something like that may not be an option structurally  
17 as we move forward on this.

18 With that, I thank you very much for the  
19 opportunity to come here today. I appreciate so much the  
20 Commission making this a discussion and taking time to do  
21 this publicly today because it's very serious. Thank you.

22 CHAIRMAN HUNTER: Thank you very much,  
23 Dave.

24 MR. MURPHY: Any questions?

25 COMMISSIONER LEAKE: Mr. Chairman, I have a

1 question. Dave, you mentioned possibly subsoil should  
2 build the structure. What would you have done with the  
3 topsoil?

4 MR. MURPHY: Well, certainly we've lost  
5 90 percent of the natural wetlands in our state, and I  
6 wouldn't want to put them at jeopardy just by leveling  
7 this up somehow.

8 But I believe that between the staff of the  
9 Department of Natural Resources and the best engineering  
10 firm in the world in the U.S. Army Corps of Engineers,  
11 that we can kind find a way to distribute this  
12 nutrient-rich topsoil in a way that will benefit wildlife  
13 and reduce the sediment load and some of the high -- the  
14 high chemical nutrients that might otherwise be put into  
15 the flow.

16 COMMISSIONER LEAKE: Thank you.

17 CHAIRMAN HUNTER: Next is Richard Fordyce.

18 MR. FORDYCE: Good morning, Chairman  
19 Hunter, members of the Commission, Colonel Hofmann. Thank  
20 you again for the opportunity to have this hearing. This  
21 certainly is, in my opinion, is a very critical decision  
22 that you must make.

23 I typically don't read from statements, but  
24 given the nature of this, I'm going to read the statement.  
25 This statement was -- was discussed at a June 6th soil and

1 water districts commission meeting and approved  
2 unanimously by the members of our commission.

3 Hello. I'm Richard Fordyce, and I have  
4 been on the soil and water districts commission for the  
5 past eight years and served as chairman for the past three  
6 years. The commission is responsible for the soil and  
7 water conservation program in Missouri, which is funded  
8 through the soils and parks tax.

9 Tax moneys are administered by the  
10 department's soil and water conservation program through  
11 local district boards in each of the 114 counties. The  
12 program assists agricultural landowners through voluntary  
13 programs that provide financial and technical assistance  
14 to protect the soil and water resources of the state.

15 The tax, which has been supported and  
16 renewed by Missouri voters since 1984, generates  
17 approximately \$40 million a year for this program. The  
18 tax was established because Missouri had one of the  
19 highest soil erosion rates in the nation. Soil erosion  
20 puts sustainable food production in jeopardy and causes  
21 sediment to enter streams, lakes and rivers, which impacts  
22 water quality.

23 The commission has worked diligently to  
24 reduce erosion from agricultural lands and to protect  
25 water quality. Since 1984 the program has provided

1 landowners approximately \$500 million for conservation  
2 practices to keep soil on the fields and out of our water.  
3 And that \$500 million are direct payments to landowners,  
4 not the administrative costs of the program.

5 Farmers are aware of the hypoxia issue in  
6 the Gulf of Mexico and have stepped up to do their part in  
7 keeping nutrients out of the water by keeping soil on the  
8 land.

9 The commission realizes that the Corps of  
10 Engineers must adhere to the mission of their  
11 organization, as does ours. We understand that dealing  
12 with management challenges of such a large river system is  
13 extremely complex. The need for reliable flows for  
14 navigation, especially in the summer months, water  
15 quantity struggles with multiple states, low flow impacts  
16 to power plants and communities and compliance with  
17 federal laws such as the Endangered Species Act all must  
18 be balanced.

19 We are also aware that there are potential  
20 implications to some of these uses if the Corps is unable  
21 to construct habitat projects.

22 The soil and water districts commission  
23 respectfully requests that the Corps of Engineers  
24 recognize and take into consideration the taxpayer funding  
25 expended and efforts Missouri farmers and multiple

1 partners have taken to minimize the loss of topsoil which  
2 is so critical to agriculture.

3 We ask that in balancing the Corps'  
4 multiple directives, that methods used on these habitat  
5 projects keep the sediment that is removed on the land.  
6 The sediment should be levelled and seeded to permanent  
7 vegetative cover, therefore minimizing to the greatest  
8 extent possible direct discharge of sediment into the  
9 river.

10 Direct discharge of soil into the river  
11 contradicts our mission statement and the efforts  
12 undertaken by Missouri landowners and taxpayers.

13 The soil and water districts commission is  
14 prepared to work cooperatively with the Clean Water  
15 Commission to address this issue. Thank you. Any  
16 questions from the Commission?

17 CHAIRMAN HUNTER: Thank you, Richard.

18 MR. FORDYCE: Thank you, Mr. Chairman.

19 COMMISSIONER WOODS: Which alternative?

20 Sorry. I'm a bottom line guy.

21 MR. FORDYCE: Well, it is the view of the  
22 soil and water districts commission, it was the view to  
23 not tie the hands of the Clean Water Commission with a  
24 specific recommendation. But I think if you were to read  
25 about keeping land -- or keeping sediment on the land and

1 spread and seeded, that that might -- we felt there might  
2 be -- we felt there might be certain aspects of options  
3 that you may want to choose. We are -- but we are opposed  
4 to the direct discharge of sediment into the Missouri  
5 River.

6 As one commissioner speaking to other  
7 commissioners, I'm not sure I would want another  
8 commission to come in to my hearing and tell me exactly  
9 what should be done. So we are leaving that -- we're  
10 leaving that difficult decision up to you-all. But we are  
11 pretty adamant about where the spoil should be not in the  
12 river but spread.

13 And the know the question was brought up,  
14 what do you do with that sediment? And I would have to  
15 agree with Mr. Waters. I would certainly think in those  
16 1,700 acres there's certainly higher areas that are not  
17 wetlands that this soil could be spread on.

18 COMMISSIONER WOODS: So there is no answer?

19 MR. FORDYCE: Would you like for me to  
20 answer myself personally or from the commission?

21 COMMISSIONER WOODS: Well, you're  
22 testifying.

23 MR. FORDYCE: My option that I would like  
24 to see the Clean Water Commission adopt would be Option 3.  
25 That is not -- that was not approved by our commission.

1 That is Richard Fordyce's opinion.

2 COMMISSIONER WOODS: Thank you.

3 Politically speaking.

4 MR. FORDYCE: Thank you.

5 CHAIRMAN HUNTER: Thank you, Richard. Next  
6 is Chuck Lay. Is that right, Chuck Lay?

7 MR. LAY: That's me, but I've not signed  
8 anything or asked anything, but I could go on for 20  
9 minutes.

10 CHAIRMAN HUNTER: Well, we have a lot of  
11 people like that. The address I have is 201 Ray Young  
12 Drive. Is that you?

13 MR. LAY: It's no question it's me, but  
14 it's not my intention to speak.

15 CHAIRMAN HUNTER: Well, you marked yes, but  
16 that's all right. It says would you like to make an oral  
17 statement, and yes is -- that's okay.

18 MR. LAY: Change that to no.

19 CHAIRMAN HUNTER: You'll defer. Next is  
20 Bill Jackson from Brunswick.

21 MR. JACKSON: My name is Bill Jackson. I'm  
22 general manager of Agri Services of Brunswick, Brunswick,  
23 Missouri. I'm a resident of Saline County. I live  
24 15 miles from Jameson Island. I work in the Missouri  
25 River valley operating a fertilizer and grain terminal,

1 mile 256, roughly 40 miles upstream from Jameson Island.

2 I'm a stakeholder. I've got a dog in this fight.

3 I'm here this morning, though, to represent  
4 former and recent past commissioner and chairman of the  
5 Commission, of the Clean Water Commission Ron Hardecke.  
6 Ron served on the Clean Water Commission from 2005 to  
7 2011, and he was chair of this Commission 2009 to 2011.  
8 And here's his statement he asked me to present.

9 Says, I am unable to attend the hearing  
10 today. However, I want to go on record as asking you to  
11 approve Alternative No. 3 for the Jameson Island chute  
12 project.

13 I was a member of the Commission in 2007  
14 when the first Jameson Island chute was built. The  
15 Commission responded to Missouri citizens who were  
16 outraged that the Corps of Engineers was dumping huge  
17 volumes of soil into the Missouri River. No citizen or  
18 private industry -- private entities would be allowed to  
19 do that.

20 At that time the Commission offered the  
21 Corps the option of side casting all soil so that the  
22 chute could be built and not dump the dirt in the river.  
23 However, the Corps and the Fish and Wildlife Service  
24 refused to pursue that option for construction.  
25 Therefore, the Commission reviewing its options --

1 reviewed its options and issued the order to stop dumping.

2                   Sediment is listed as a pollutant in both  
3 the Clean Water Act and the Missouri clean water law.  
4 Environmental impact of side casting either dry or as a  
5 slurry would be far less -- the environmental impact of  
6 side casting either dry or as a slurry would be far less  
7 than dumping millions of tons of soil in the river.

8                   Ordinary citizens are required to abide by  
9 the Clean Water Act regardless of the cost or convenience.  
10 Government agencies should be required to do the same.  
11 Agriculture has long been blamed for the nutrient load in  
12 the Gulf of Mexico that is contributing to the hypoxia  
13 problem.

14                   Colonel Hofmann and the Fish and Wildlife  
15 Service, you should do the same as the rest of the  
16 citizens of the state of Missouri and keep the soil out of  
17 the river.

18                   Members of the Clean Water Commission, I  
19 ask that -- I ask you to only give the Corps a permit for  
20 Alternative 3, to save our soil and protect our water.  
21 Colonel Hofmann, you and the U.S. Fish and Wildlife  
22 Service and the EPA should abide by the same laws that the  
23 rest of us are required to live by and side cast the soil.

24                   CHAIRMAN HUNTER: Thank you, Bill. Bill, I  
25 had just one question. Obviously that's Ron's

1 presentation or comment, and so we can't ask Ron. We  
2 already know what he would recommend. My question for  
3 you, since you live practically in the center of this  
4 controversy, is which alternative would you prefer?

5 MR. JACKSON: Alternative No. 3, with the  
6 provision that the side cast soil be spread and seeded.

7 CHAIRMAN HUNTER: Thank you. That's pretty  
8 straightforward.

9 Next we have John Sam Williamson.

10 MR. WILLIAMSON: Good morning. I'm John  
11 Sam Williamson from Boone County, and I'm a sixth  
12 generation farmer on the same farm in the Missouri River  
13 bottom just southwest of Columbia at McBaine.

14 Our river bottom is a little different than  
15 some of these others. We've got a lot of things in our  
16 bottom besides just farmland. The City of Columbia,  
17 Missouri has 15 wells where they draw all the water for  
18 the city of Columbia. They also have some sewage wetland  
19 cells. We have a very large wildlife area at Eagle Bluffs  
20 Wildlife Area operated by the Missouri Department of  
21 Conservation.

22 My primary statement to you today is that  
23 we oppose dumping dirt in the Missouri River. A year ago  
24 about now, we were faced with some sloughing of levees  
25 into the Missouri River and some into Percy Creek. We

1 were able to get permits from the Corps to build them, but  
2 the final word was do not dump any river -- do not push  
3 any dirt or trees in the Missouri River, and we were  
4 forced to abide by that, of course.

5 I have a neighbor several years ago, he has  
6 a boat ramp that was approved by the Corps to build that  
7 boat ramp in the location. This is at Huntsville,  
8 Missouri, and he gets problems with sediment on the  
9 concrete part of his boat ramp, and in order to clear that  
10 off, he'd been pushing that dirt off in the river.  
11 There's also a small stream grocery branchy that probably  
12 hasn't flowed much water into the river until this morning  
13 and I'm sure the water got up. We had about half an inch  
14 of rain before I left home.

15 But he was trying -- because the river had  
16 been so low for a number of years, the bottom of the  
17 channel had gotten lower, and the banks were sloughing off  
18 straight up and down. We have begun to work on some plans  
19 to do something there. He tried to do some work himself,  
20 and he was threatened to be fined by the Corps of  
21 Engineers for allowing dirt to be flushed out of that  
22 stream into the Missouri River and off his boat ramp  
23 there.

24 I think the Corps should abide by the same  
25 laws that the rest of us have to abide by. I'm concerned

1 about the focus of the Corps in recent years. Spend many  
2 times more money for habitat for wildlife. Certainly  
3 wildlife are important, but there's less money available  
4 always for bank stabilization, for rock and other things,  
5 and we think that's most important.

6 I would support Alternative 3 with the  
7 condition that that dirt be spread, avoiding wetlands if  
8 possible, and that it should be seeded. Thank you.

9 CHAIRMAN HUNTER: Anyone have questions?  
10 Thank you very much.

11 Next is Susan Flader.

12 MS. FLADER: Thank you, Mr. Chairman and  
13 others on the panel. I am president of the Missouri Parks  
14 Association, a statewide citizens organization formed to  
15 advocate for our state park system, including the funding  
16 of the system.

17 We have been strong leaders over the years  
18 in the renewals of the parks and soils sales tax, which  
19 funds 75 percent of the operating costs of the system, and  
20 we are proud of our association every ten years when it  
21 comes time to renew that tax with our friends in the  
22 agricultural community, including the soil districts  
23 commission.

24 None of us is in favor of soil erosion or  
25 the loss of productive soil from agricultural lands, but

1 that's not really what we're talking about here. We're  
2 talking about river sediments. We're talking about  
3 materials that have been deposited, eroded, redeposited in  
4 a natural dynamic process by the shifting channels of the  
5 Missouri River over time, a process that was brought to an  
6 end largely by the bank stabilization and navigation  
7 project.

8                   When I first visited Arrow Rock now nearly  
9 40 years ago, Arrow Rock, a national historic landmark for  
10 its key role in the history of transportation and trade  
11 along the Missouri River, I was dumbfounded. I went,  
12 b-b-but where's the river? You couldn't see the river.  
13 Nobody talked about the river. It was as if there was no  
14 connection with the Missouri River.

15                   As a result of the Fish and Wildlife  
16 Service acquisition of Jameson Island and other nearby  
17 lands for the Big Muddy National Fish and Wildlife Refuge  
18 and work that they've done there, they have begun to  
19 reconnect that national historic landmark town of  
20 Arrow Rock with the Missouri River.

21                   In the Missouri Parks Association, we are  
22 great advocates of restoration of lands. Our park  
23 division are specialists in this all across the state,  
24 including in the parks along the great rivers. We have  
25 more than 20 state parks along the Mississippi and

1 Missouri Rivers, 13 of them along the Missouri River  
2 alone, including the Katy Trail, Confluence Point State  
3 Park, Jefferson Landing, Van Meter, Arrow Rock, Westin  
4 Bend, Lewis and Clark and others.

5 I'm sure that the park division would be  
6 happy to cooperate with the Corps, the Fish and Wildlife  
7 Service, the Conservation Department, any other agencies  
8 in restoring a more natural function to the Missouri River  
9 where it is possible to do so. We're not talking about  
10 taking productive agricultural lands and turning them into  
11 shallow water habitat.

12 We're talking for the most part about land  
13 that is already in public ownership or would be acquired  
14 from willing sellers, land that repeatedly floods, land  
15 that would be better used for developing fish and wildlife  
16 habitat and restoring a more natural function at least in  
17 those stretches of the river where it is possible to do  
18 that sort of restoration.

19 There have been very good results from  
20 these projects where there have been more of them done in  
21 the states upstream from us, especially Iowa and Nebraska  
22 where they are very popular. And we have a good --  
23 there's a good record of it. There still needs to be  
24 monitoring, and not only monitoring of Corps projects, but  
25 monitoring of runoff and pollutants from other kinds of

1 land, including private land, to detect what the  
2 differences are in those -- in that runoff from different  
3 kinds of sediments, different kinds of soils.

4 But the bottom line is that the Missouri  
5 Parks Association is strongly supportive of restoration  
6 Alternative 3 at Jameson Island, and we look forward to it  
7 being done in more of our parks along the great rivers.  
8 Thank you very much.

9 COMMISSIONER WARREN: Susan, can I just ask  
10 you for clarification what option you're supporting?

11 MS. FLADER: Alternative 4. Did I say 3?  
12 I goofed. Excuse me. The Corps' option, Alternative 4.  
13 The National Academy of Sciences report, which is a very  
14 good read, it's actually readable, makes very clear that  
15 the Missouri River is starved for sediment. The native  
16 fish and wildlife need sediment in the river. It's not  
17 the Big Muddy for nothing. It's the Big Muddy because  
18 that is the natural condition of that river.

19 And the regulations of the clean water  
20 Commission are going to have to somehow take into  
21 consideration the nature of the receiving bodies of water  
22 and develop regulations that recognize the tremendous  
23 benefits of restoration of habitat along the great rivers,  
24 benefits also to farmers and others by helping to mitigate  
25 the severity of floods. The more habitat that can be

1 opened to flooding the more -- the less damage to areas  
2 that are leveed off from flooding. Thank you.

3 MR. CRANDELL: Can we get a point of order  
4 in the audience? There was a lot of rude comments coming  
5 from back here.

6 CHAIRMAN HUNTER: Do you think that's  
7 necessary?

8 MR. CRANDELL: I think it is.

9 CHAIRMAN HUNTER: You did turn in a card?

10 MR. CRANDELL: I did.

11 CHAIRMAN HUNTER: Next is Billy Thiel,  
12 Billy Thiel from Marshall, Missouri.

13 MR. THIEL: Thank you for the opportunity  
14 to testify before the Commission today. My name is Billy  
15 Thiel. I'm the president of the Missouri Corn Growers  
16 Association, and I represent corn farmers from across the  
17 state, notably today those that live along and farm along  
18 the Missouri River.

19 It's obvious that Jameson Island project  
20 such as many of the mitigation projects along the Missouri  
21 River is having a negative impact on the Howard County  
22 levee. It is important that this issue be addressed to  
23 preserve the structure and integrity of the levee.

24 In light of this fact, the Missouri Corn  
25 Growers Association strongly opposes the Army Corps of

1 Engineers dumping phosphorus rich soil from this project  
2 into the Missouri River as it's clearly a violation of  
3 Missouri -- or of the Clean Water Act and offsets the hard  
4 work and investments that farmers take to keep their soil  
5 in their fields.

6 As farmers, we continually take the blame  
7 for being the source of nutrients in the river causing  
8 hypoxia in the Gulf of Mexico. For this reason, we put in  
9 various place -- in place various effective conservation  
10 measures to reduce soil erosions on individual farms.

11 The Federal Government should be held to  
12 the same standard and not work against efforts of the  
13 private citizens. We urge the Clean Water Commission to  
14 grant approval for Alternative No. 3, which would call the  
15 soil from the project to be deposited on land and keep it  
16 out of the river. The soil should be properly seeded down  
17 as well to reduce additional erosion from this project.

18 It is important that we work together to  
19 practice soil conservation from the private citizens to  
20 the state and the federal agencies. Thank you.

21 COMMISSIONER COWHERD: Mr. -- is it Thiel?

22 MR. THIEL: Thiel, yeah.

23 COMMISSIONER COWHERD: I'm not a levee  
24 person. I'm from Lawrence County, so we don't have many  
25 levees down there.

1                   You said negative impact on the Howard  
2 County levee, and I'm not following that. I thought they  
3 were switching that in Alternative 3 and 4 to make the  
4 chute run a different way?

5                   MR. THIEL: They had to change it because  
6 it was going right across and hitting levee and it was  
7 causing problems there.

8                   COMMISSIONER COWHERD: I understand that.  
9 All right. Under the new alternatives, I think 3 and 4,  
10 both redirect the chute, don't they? Is that right? Am I  
11 missing that?

12                  COLONEL HOFMANN: That's correct.

13                  COMMISSIONER COWHERD: So 3 and 4 do the  
14 same thing on the levee issue, don't they?

15                  COLONEL HOFMANN: Yes.

16                  MR. THIEL: That's why we're backing No. 3.

17                  COMMISSIONER COWHERD: I understand that.  
18 Okay. Thank you.

19                  COMMISSIONER WARREN: Mr. Thiel, a quick  
20 question. As a farmer, Corn Growers Association, do you  
21 think there's a different level of phosphorus and nitrogen  
22 in agricultural soil than river sediment?

23                  MR. THIEL: Well, it was agricultural soil  
24 at one time because it's all the topsoil that's went down  
25 in there, and I'm sure it hasn't lost any of it. So I

1 would say it would be the same.

2 COMMISSIONER WARREN: It would be the same.

3 Okay.

4 CHAIRMAN HUNTER: Thank you, Billy. Next  
5 is Bob Perry, the biochemist.

6 MR. PERRY: I'm the attorney, but I can go  
7 first. Does it matter?

8 CHAIRMAN HUNTER: You are first.

9 MR. PERRY: Okay. Then I'll go. Good  
10 morning, members of the Commission, Colonel Hofmann. I'm  
11 Bob Perry from Bowling Green, Missouri. I'm an attorney,  
12 and I'm here on my own accord.

13 Alternative 4 is inconsistent with  
14 well-stated and well-informed policies. In Missouri we  
15 have a sales tax that we've discussed already in the  
16 Missouri Constitution. It is 1/10 of 1 percent. Half of  
17 that sales tax goes to parks, and half is for, and I quote  
18 from the Constitution of Missouri, for the saving of the  
19 soil and water of this state, for the conservation of the  
20 productive power of Missouri agricultural land.

21 We have a constitutional mandate to protect  
22 our soil. 70 percent of Missourians, as we've heard,  
23 voted for this in 2006. If we say it is okay or good to  
24 dump soil in the river, how can we ask Missourians to  
25 continue taxing themselves when this comes up for a vote

1 in 2016?

2                   The next major inconsistency I see is the  
3 Clean Water Program of the Missouri Department of Natural  
4 Resources has recently had this program, and I think it's  
5 a pretty good idea. It's Our Missouri Water initiative.  
6 It's an idea of looking at a whole watershed and managing  
7 the different pollutants that come in that watershed.

8                   Most interesting of these is one of the  
9 pilot programs is the Lower Grand River. Those of you  
10 familiar with the map will know the Lower Grand River  
11 flows into the Missouri River at approximately 15 miles  
12 from Jameson Island. And one of the major reasons we've  
13 identified this watershed as a problem is because of  
14 sediment going into the Missouri River. That's in the DNR  
15 press releases. This is clearly inconsistent with that.

16                   I'd also like to point out two recent  
17 lawsuits that were filed. The EPA is being sued by the  
18 Missouri Coalition for the Environment and the Sierra Club  
19 for failing to prevent putting nitrogen and phosphorus  
20 into the river. I'll read just one paragraph from a case  
21 filed in the Southern District of Louisiana.

22                   Excessive nitrogen and phosphorus pollution  
23 in the Mississippi River basin in northern Gulf of Mexico  
24 causes or contributes to a massive low oxygen dead zone in  
25 the Gulf of Mexico as well as extensive water quality

1 degradation and impairments that cause substantial harm to  
2 aquatic life, human health, and the economic, aesthetic  
3 and recreational values of rivers, lakes, streams and  
4 oceans.

5                   If these groups are going to come here and  
6 testify today that nitrogen and phosphorus here are not a  
7 problem, it is at best inconsistent and may be unethical  
8 because they have represented to a federal court  
9 otherwise.

10                   The National Academy of Science study shows  
11 us that the shallow water habitat projects will make the  
12 Corps the biggest phosphorus polluter on the Missouri  
13 River. Soil is a pollutant by definition in the Clean  
14 Water Act Section 502. Under the Corps plan, it is dredge  
15 spoil and rock, sand and cellar dirt. Those are all  
16 regulated under the anti-degradation rules.

17                   The Missouri -- the Clean Water Commission  
18 does not need to do anything. Alternative 3 with the  
19 spreading of the soil and the seeding of the grass and  
20 monitoring with standard chemical analysis will ensure the  
21 protection of our soil and water as well as compliance  
22 with the Clean Water Law. Thank you.

23                   MR. CRANDELL: Can I make a correction on  
24 that?

25                   MR. PERRY: I believe we said we would not

1 be --

2 CHAIRMAN HUNTER: That's right. No,  
3 Lauren. You'll have your chance.

4 MR. PERRY: Were there any questions from  
5 the Commission?

6 CHAIRMAN HUNTER: Thank you, Bob. Since we  
7 have two, now I'd like to call Bob Perry the biochemist.

8 MR. PERRY: Thank you. Appreciate the  
9 Commission for hearing us and the Colonel being here, and  
10 respect you for your service. Thank you very much.

11 I'm Bob Perry from Bowling Green, Missouri.  
12 I'm a biochemist. I run a laboratory that does soil,  
13 feed, plant tissue, manure. Work with farmers, how to  
14 fertilize crops, and we also do environmental testing.

15 A couple things I wanted to bring up. One  
16 of the questions is how on earth could all this go into  
17 the Gulf and not affect hypoxia? And that's not what the  
18 NRC said in their thing. They said it wouldn't affect the  
19 extent of hypoxia. What's that mean? It meant that  
20 hypoxia is so bad right now, we couldn't make it bigger.  
21 At least that's one person's opinion.

22 That's a big difference from all these  
23 efforts that the feds are making to reduce hypoxia. They  
24 want a 45 percent reduction in phosphorus and nitrogen  
25 going down the river. And actually, I think Missouri's

1 signed on to try to participate and accomplish that.

2 We talk about terminology like it's a small  
3 portion of the phosphorus that goes down. Well, the  
4 Missouri River -- they say these projects at the most  
5 would give us 12 percent more phosphorus to the Gulf of  
6 Mexico. The Missouri River only donates 20 percent of the  
7 phosphorus. So for them to increase 12 percent is like a  
8 60 percent increase in the amount of phosphorus going down  
9 the Missouri River.

10 These are their numbers. It's just a  
11 different way of looking at them. But they want you to  
12 look at these numbers on a per day compared to what -- and  
13 we want to look at it in a little different light. This  
14 is just one project of -- they have 3,000 acres so far in  
15 shallow water habitat that's been accomplished around  
16 that, and they need another 13 to 16,000 acres.

17 In this PIR they have the biop that says we  
18 would like 30 acres for every mile, river mile, right?  
19 And on this project it happens to be 30 acres we'll get  
20 and happens to be one mile long. This would mean that  
21 we're going to have to do this for every river mile we've  
22 got. So this is no small thing, and it's far from  
23 natural. It's complete engineering.

24 Also want to point out that we -- and I  
25 think it's been pointed out before, but the nutrient

1 analysis that they would say shows that they comply with  
2 the anti-deg rules is clear water, and what they're  
3 putting into the river is going to be mud. They haven't  
4 looked at bacteria. Most of our TMDLs have to do with  
5 bacteria. The sturgeon actually was on the health  
6 advisory. You can't eat sturgeon because of pesticides in  
7 them. We haven't looked at that kind of testing.

8                   We can't -- you have to remember, you're  
9 looking at certain compounds like mercury and pesticides,  
10 they'll be at such low levels, we can't even detect them  
11 in the water. We have to analyze the fish and find out if  
12 they're accumulating these things. So there's a lot of  
13 work and study that could be done.

14                   One of the questions earlier was, what's  
15 the difference between this soil and agricultural soil.  
16 Well, they have tested this soil down to like 15 feet  
17 deep, and almost at all those levels you'll come out with  
18 pretty high phosphorus levels, sometimes 400 parts per  
19 million up to 1300 parts per million total phosphorus. So  
20 it's -- this is soil that came from someplace else eons  
21 ago, and it is high in nutrients.

22                   Just want to make sure I hit all my points.  
23 I think that's it. Something about difference in rivers,  
24 and I'll let you ask me after a while. Thank you very  
25 much, you guys.

1 CHAIRMAN HUNTER: Questions?

2 COMMISSIONER COWHERD: Mr. Perry, did I  
3 understand you correctly that this project will increase  
4 the phosphorus content of the Missouri River by  
5 60 percent?

6 MR. PERRY: The shallow water habitats,  
7 when they accomplish, they have --

8 COMMISSIONER COWHERD: You're talking about  
9 this in combination with the other?

10 MR. PERRY: Yes. This is part of the  
11 13,000 acres more that they've got to come up with. This  
12 30 acres is a small part.

13 COMMISSIONER COWHERD: I understood it to  
14 be this project alone.

15 MR. PERRY: No. And that's -- yeah.  
16 That's a good point, John, that this project alone looks  
17 like this amount. It's only like 1 percent. But now if  
18 you -- to get on schedule, they'd almost have to be doing  
19 30 of these a year.

20 COMMISSIONER COWHERD: Is your 60 percent  
21 extrapolated from doing a project along each mile of the  
22 Missouri River or just existing projects that are there?

23 MR. PERRY: It's by looking at their  
24 numbers and saying how many acres did they need to  
25 accomplish of shallow water habitat and their numbers

1 about the nutrient content in those and their numbers on  
2 what the volume of soil that would be. Thank you guys.

3 COMMISSIONER WOOD: Which alternative?

4 MR. PERRY: You know, if we have to take an  
5 alternate, it would be Alternate 3 and the soil spread out  
6 and seeded so it won't erode into the waters. And there's  
7 really nothing wrong for you guys to send them back and  
8 tell them to do their own work on check on E-coli, check  
9 on fish analysis for pesticides, and get all their ducks  
10 in order.

11 In the PIR, a number of the reports they  
12 gave you are actually talking about -- still had the  
13 headings of Benedictine Bottoms. They weren't even  
14 talking about Jameson Island. So it's not like they  
15 overworked themselves in preparing this properly for you.

16 CHAIRMAN HUNTER: Thank you, Bob.

17 Now, Lauren, I'm going to let you go next.  
18 I moved this up because you were in opinion such an  
19 anxious state, I knew that you wanted to speak.

20 MR. CRANDELL: Yeah. I just don't even  
21 know where to start to day, but the first thing I'll start  
22 with is it's not just the Missouri Coalition for the  
23 Environment and Sierra club suing the EPA.

24 COMMISSIONER LEAKE: Why don't you start  
25 with your name and who you represent today, please.

1                   MR. CRANDELL: My name is Lorin Crandell,  
2 and I'm the clean water program director for the Missouri  
3 Coalition for the Environment. I'm a member of the  
4 Mississippi River Collaborative along with a number of  
5 other organizations up and down the Mississippi River  
6 basin from the Gulf Restoration Network in New Orleans,  
7 the Tulane Law Clinic, to the Prairie Rivers Network, to  
8 the Environmental Law and Policy Center in Chicago, the  
9 Natural Resource Defense Council, which is nationwide,  
10 Minnesota Environmental Council, Iowa Environmental  
11 Council, the whole slew of groups.

12                   And we worked together and we filed that  
13 lawsuit together with the NRDC, and I encourage you to  
14 read it and learn about the importance of developing  
15 numeric nutrient criteria on all waters of the U.S. and  
16 Missouri.

17                   There's just been an awful lot of  
18 interesting claims here, but one thing that hasn't really  
19 been discussed is the role of sediment beyond just  
20 creating habitat and placing it into the river and what  
21 does that sediment do and what's the historical role of  
22 that sediment in the Missouri River?

23                   One of the things to note is that there's  
24 80 percent less sediment in the Missouri River than there  
25 used to be, and that we've build a bunch of dams and those

1 dams are filling up with sediment. There are dams on the  
2 Call River that are filling up with sediment. The  
3 sediment should be there and it's not. People are calling  
4 this alluvium, this base load sediment, this conveyer  
5 belt, this glacier of sediment that's been part of the  
6 natural process in the United States for millennia,  
7 they're calling that pollution, and that's really  
8 problematic.

9                   And they're citing examples of Home Depot  
10 or Wal-Mart builds where there used to be a forest and  
11 they disturbed all that flora and fauna, left the soil  
12 exposed and it all the washed off into a creek that was  
13 spring fed, a clear water creek, into someone's private  
14 lake. That creates a problem.

15                   When you've got sediment moving down the  
16 entire Missouri River going into the Mississippi, it does  
17 something, and it does something that it's done for a long  
18 time, except now it's not doing it so well, and what it  
19 does is it builds coastal wetlands. Those are the last  
20 line of defense against the dead zone. Without that  
21 sediment, they dissolve into the gulf.

22                   You get huge loads that the wetlands grow  
23 upon, they uptake a lot of the nutrients in that base load  
24 sediment and they filter out the dissolved nutrients in  
25 the water. Without those wetlands, the dead zone gets

1 worse and worse and worse. Without the sediment, the  
2 wetlands won't be there. And you can check the facts, but  
3 they've been eroding at football fields a day for years  
4 now. The wetlands are going away, and when you look at  
5 the storm surge from Katrina, you can see what that does.  
6 It destroys New Orleans. It destroys New Orleans.

7                   We have the Mister go shipping channel and  
8 a bunch of oil and gas shipping channels through these  
9 wetlands, and those allow what sediment does go down there  
10 to shoot right out into the Gulf and Mexico instead of  
11 performing its natural process. So, you know, that hasn't  
12 been part of this conversation, and I'm not sure why,  
13 because it's incredibly important.

14                   And this isn't a really simple dynamic, and  
15 one soil isn't the same as the other. This sediment that  
16 originates in a lot of cases in snow melt, you know,  
17 particles broken lose by snow melt way upstream, gradually  
18 makes its way downstream. It's a natural process. The  
19 river is sediment starved, and that is a scientific fact.

20                   The people who are here with the levee  
21 districts, first of all, as we just discovered a couple of  
22 comments ago, that outlet on Alternative 4 is pretty much  
23 the same as the outlet on Alternative 3. So it's not  
24 really clear what's threatened.

25                   What I can say is that those who drink

1 water, those who live behind a levee might end up seeing  
2 some increased cost because the loss of sediment in the  
3 river is causing the bottom of the river to drop, and so  
4 that's undercutting levees. That's causing people to have  
5 to drop water intakes down, which is an expense to all of  
6 us.

7                   Furthermore, someone said -- the last  
8 commenter said this is -- this is complete unnatural.  
9 This slough is completely unnatural. But I'm sure he  
10 wouldn't stand up here and say that navigation channel,  
11 those levees, completely unnatural, but those are  
12 completely unnatural.

13                   So I understand the value and the validity  
14 of preserving our soil. I understand that Missouri has  
15 been one of the worst states for erosion since we've been  
16 tracking erosion, and we've gotten better, but we're still  
17 one of the worst.

18                   So, you know, when you're looking at this  
19 conveyer belt, this natural conveyer belt of base load  
20 sediment rebuilding the ecosystems that it travels  
21 through, that is good sediment. When you're looking at  
22 where a forest was torn down and the soil was left exposed  
23 and the exposed soil is washing into a clear water stream,  
24 that is when sediment becomes a problem, and they are two  
25 very distinct things.

1                   Furthermore, there's dissolve  
2 orthophosphates in the water from synthetic fertilizers,  
3 and then there's phosphorus bound up in a particle of  
4 sand, and it may become bio available when it finally gets  
5 to the Gulf years from now, but it may also get trapped in  
6 one of those wetlands and become part of the ecosystem,  
7 and that phosphorus in its natural form is absolutely  
8 necessary for those wetlands to grow. They're plants just  
9 like any other. They need phosphorus.

10                   So, you know, we filed our lawsuit --  
11 time's up. We filed our lawsuit because we're trying to  
12 get the system back to natural. We're not trying to ruin  
13 anybody's living. We're not trying to make agriculture  
14 impossible, even though there's a lot of concern from the  
15 ag community.

16                   I think one thing that I would point out as  
17 an assurance to them, we don't have numeric nutrient  
18 criteria in Missouri. We don't even have sediment  
19 standards to match the river that they're for. We don't  
20 have -- the coverage of agricultural runoff is exempted  
21 from the Clean Water Act. You can look it up. It's not  
22 in there.

23                   And furthermore, you know, keeping your  
24 soil from eroding, isn't that good for production? I  
25 mean, are you really doing us all a big favor by keeping

1 the soil on the land or are you doing yourself a favor?  
2 So, you know, there's different -- there's different kind  
3 of soils and farmers should know the difference. I grew  
4 up in a farming family.

5 AUDIENCE MEMBER: Time.

6 MR. CRANDELL: I grew up hunting and  
7 fishing.

8 AUDIENCE MEMBER: Is there a five-minute  
9 limit or not?

10 CHAIRMAN HUNTER: Yes, there is.

11 MR. CRANDELL: I was just bouncing back off  
12 of Kristin Perry's 45-minute presentation at the last  
13 meeting. There's just so much here to refute, I don't  
14 even know where to start. I keep taking notes, and I just  
15 feel sorry that there's so much confusion around this. It  
16 really shows that a lot of people haven't --

17 AUDIENCE MEMBER: What does the speaker not  
18 understand about time?

19 CHAIRMAN HUNTER: Lorin, maybe you better  
20 just stop. Thank you very much for your comments.

21 Next is William Beacom.

22 COLONEL HOFMANN: I made the recommendation  
23 to Dr. Hunter to extend the period -- obviously his  
24 call -- by 20 minutes. The Corps' received only one  
25 written question, one written comment, and my

1 recommendation to Dr. Hunter, should he choose, to extend  
2 it 20 minutes to allow the public additional time.

3 CHAIRMAN HUNTER: Does anyone have any  
4 objection to that? Looks like we're not going to have any  
5 trouble filling up that additional time.

6 MR. BEACOM: My name is Bill Beacom. I am  
7 one of the charter members of the pallid sturgeon recovery  
8 working group. I got a special permit to belong to that  
9 group from the assistant secretary of the interior in 2004  
10 because not only of my past interest but because of my  
11 knowledge.

12 I am also a retired towboat captain, which  
13 some here would think was probably an oxymoron, but it's  
14 not. And what I want to deal with here is the very loose  
15 use of terminology by most of the speakers. I think that  
16 if I -- and I'm not going to try to quote because I've got  
17 a good memory, but I can't quote.

18 The -- I think that the conclusion of the  
19 National Research Council was that this here project  
20 doesn't significantly contribute to the hypoxia in the  
21 Gulf. Now, that all rides on the word significantly. If  
22 you cut off my little finger, it does not significantly  
23 contribute to the use of either hand because I still have  
24 90 percent of my fingers. If you cut off every finger in  
25 this one little finger in this room, it still by

1 definition doesn't significantly contribute to the loss,  
2 but it's certainly not a good idea.

3                   So significantly contribute doesn't really  
4 mean anything except in what I call scientific  
5 gobbledygook. They use that word when they really don't  
6 want to say anything.

7                   Now, getting into the report itself, there  
8 is another word in there that's very important that no one  
9 wants to talk about relative to the building of these  
10 chutes, and that is metrics. How many times have you  
11 heard the word acres this morning? Significantly -- a  
12 significant number. And isn't metrics a right way to  
13 approach a scientific problem?

14                   Do you use acres when you're trying to come  
15 to a conclusion that involves biology? Most biologists  
16 don't. Most biologists use what is known as performance  
17 metrics. In other words, is the work that you're doing  
18 contributing to the task that you're trying to perform?

19                   Now, we're talking like this particular  
20 Jameson chute is some kind of an experiment. Huh-uh.  
21 It's not an experiment. There were natural chutes in the  
22 Missouri River before the '93 flood, and I think that some  
23 of the people that live along the river know where they're  
24 at. But those chutes could have been monitored at that  
25 time, and actually the one at Jameson Island just across

1 the river at Lisbon chute was made by the '93 flood, and  
2 there is a claim that they mimicked some of the other  
3 chutes after the Lisbon chute.

4                   There was -- and what led up to that was  
5 they thought they found some larval pallid sturgeon in  
6 that chute, but now we know that morphological  
7 identification is not substantive enough to arrive at  
8 whether it's a pallid or a shovel nose, we have concluded  
9 that it was in error that they identified those as pallid.

10                   The truth of the matter is that there have  
11 been no pallid under the age of one year found on the  
12 Missouri River in the last 25 years. Yet we're spending  
13 all this money on experiments to build a house for  
14 something that we don't even know is there. We know  
15 there's adults, but the little ones may be coming from the  
16 Mississippi.

17                   So getting down to what we're talking about  
18 on No. 3 or No. 4, another really good word is wetlands.  
19 Wetlands has a very good definition, and if you go to the  
20 EPA, it pretty much says a part of the landscape that will  
21 encourage the growth of certain plants, fauna, so on and  
22 so forth. But if you would explain that to a layman, you  
23 would explain that wetlands is not a place where you can  
24 grow corn or where you can grow soybeans, but it's  
25 probably a really good place to grow rice or cranberries

1 and mosquitos. That's wetlands.

2 My thoughts are there are probably some  
3 wetlands up in that area, but as a towboat captain I went  
4 down there and I've been through and I've seen the corn  
5 growing, so it's mostly farmland that's been flooded. So  
6 you should be able to find a place to do science 3. My  
7 thoughts are, from the standpoint of science, you've got  
8 enough chutes already. Monitor them, see if they're doing  
9 any good, and quit this metrics nonsense which is costing  
10 hundreds of millions of dollars. Any questions?

11 CHAIRMAN HUNTER: Thank you, Captain  
12 Beacom.

13 Next is Dan -- I'm having a hard time.  
14 7385 Bluff Road, Washington.

15 MR. KUENZEL: Kuenzel.

16 CHAIRMAN HUNTER: Dan.

17 MR. KUENZEL: My name is Dan Kuenzel. I am  
18 a farmer, and I'm also a board member for the Missouri  
19 Levee and Drainage Association.

20 From my -- at Washington, Missouri where I  
21 farm with several family members for about a 60-mile  
22 stretch of the river. Our operation consists of a large  
23 livestock operation along with grain, and about half of  
24 this land we farm is what we call uplands or rolling  
25 hills, which consist of terraces, waterways and diversion.

1 We spend tens of thousands of dollars every year redoing  
2 waterways, making new terraces, well as fixing these  
3 diversions. We even have a couple of farms that we had  
4 put field borders all the way around to filter dirt out  
5 into the grass strip so water leaving the field entering  
6 the watershed is hopefully free of fertilizer and  
7 chemicals. We do all this voluntarily.

8                   As a farmer, conservation is very important  
9 to me because the things we do today will hopefully make a  
10 difference tomorrow.

11                   Clean Water Commission has a very tough  
12 decision to make today, but the Corps of Engineers should  
13 have to comply with the laws of the Clean Water Act just  
14 like other citizens do. I urge the Clean Water Commission  
15 to deny the request to dump directly into the river at  
16 this time.

17                   However, if you decide to grant this  
18 permit, there should be a time limit with an allowance for  
19 weather delays, and the permit should only be issues for  
20 the Jameson Island project and no others. But please keep  
21 in mind, if the Corps of Engineers can be allowed to dump  
22 dirt directly in the river, then agriculture should also  
23 be able to obtain a permit. I will personally make a  
24 request for a permit to the Clean Water Commission to be  
25 able to take my scrapers, start removing sand from my

1 fields in the river bottom that was deposited too deep in  
2 the '93 and '95 flood to do anything with, and I will take  
3 it to the river bank and I would prefer to push it into  
4 the river with my dozer.

5                   However, I wonder how many of the  
6 environmental groups here today would stand up in favor of  
7 a farmer's permit to dump dirt directly into the river. I  
8 think I would be safe in saying not one because it would  
9 be considered agricultural reclamation and not  
10 environmental restoration. And I do support Alternative  
11 No. 3. Are there any questions?

12                   COMMISSIONER COWHERD: How do you spell  
13 your last name?

14                   MR. KUENZEL: K-u-e-n-z-e-l. I'm sorry.  
15 I'm not very good at writing.

16                   COMMISSIONER COWHERD: You said that you  
17 would favor issuing the permit with a couple limitations.  
18 One would be to limit it only to the Jameson Island  
19 project, and I assume there's one other and I forgot it.

20                   MR. KUENZEL: It was on a time limit. I  
21 think there should be a time limit. And I'm not saying  
22 these chutes not be completed. I would like to see the  
23 Jameson Island chute completed. However, it should be  
24 every time the Corps of Engineers wants to do a project, I  
25 think they should have to come before the Clean Water

1 commission for a permit, just like I would have to do.

2                   You know, if I want to remove sand -- and I  
3 could pile this sand along in my fields. However, we did  
4 that in '94, and after the '95 flood, I had a very bunch  
5 of unhappy neighbors because my sand piles ended up down  
6 on them, which we had to help them correct, which that was  
7 the neighborly thing to do because it was our fault that  
8 we created that problem. So thank you.

9                   COMMISSIONER COWHERD: How many acres do  
10 you have?

11                   MR. KUENZEL: 6,500 that we farm.

12                   CHAIRMAN HUNTER: Thank you, Dan. William  
13 Masurt from in New Haven. That's you.

14                   MR. MASURT: I'm Bill Masurt. I'm from New  
15 Haven, Missouri. I also farm in the Missouri River  
16 bottom, and I have been on the Missouri Levee and Drainage  
17 District over the years, the board. I'm no longer. Danny  
18 took my place.

19                   I listened to a lot of things here, and I'm  
20 going to make a couple statements that are my personal  
21 opinion. Okay. Personally, I think that the chute was  
22 not built in good faith. For one thing, it's no longer a  
23 shallow water habitat because they didn't put the dike out  
24 there to keep it from being -- getting deeper. So it  
25 shows that they don't really have good intentions in my

1 mind.

2                   Now, I've seen this happen in several other  
3 places, and the first thing that comes up is we don't have  
4 the money to fix it. Well, you have the money to build  
5 it. You should have the money to fix it and maintain it.  
6 And I think that this is one of the restrictions that  
7 should be put on all of this stuff, that if they build it,  
8 they have to maintain it, and they can't just say, huh,  
9 water came through, knocked that dike down, it's not in  
10 our maintenance budget, so we're just going to let it cut  
11 30 to 40 feet deep. We're going to let it shoot into that  
12 levee over there across the river, and it will eat it  
13 away. Then we have some more willing sellers. But it all  
14 became that because they didn't maintain it.

15                   Maintenance is going to be a really big  
16 part of all of this stuff they're talking about. You  
17 think buying land and building it's going to be expensive.  
18 Who's going to pay to maintain all this stuff, and who's  
19 going to regulate the maintenance? If you give them a  
20 permit to do it, are you going to give them guidelines  
21 that they have to maintain it so that once it's there it  
22 doesn't continue to dump dirt, doesn't continue to eat at  
23 the banks?

24                   Then the other question I have is, we're  
25 all so worried about what we're going to do with this

1 dirt. I'm not an engineer, a lawyer. I'm just a farmer,  
2 but there's this dig ditch on the end of current shallow  
3 water habitat that really needs to be filled to turn the  
4 water anyway. So why don't we just take the water out of  
5 the ditch we're wanting to build and put it in the end of  
6 that ditch that we -- that we created that was only  
7 supposed to be shallow water habitat which is no longer  
8 shallow, put it there, stabilize it and use it to divert  
9 the water into the new ditch that we're going to make?

10                   And they'll say, well, we've got to move  
11 too much trees, we've got to do all this dozing and stuff.  
12 Well, we don't. There's a dredge factor. All you have to  
13 do is back in there, put a pipe over to it. You won't  
14 knock very many trees down at all with a pipe. Move that  
15 sand right into spot where you want it too.

16                   Of course, alluvial will come into that  
17 conversation, and all this sand is alluvial. Sand becomes  
18 very compact when it's moved with a dredge. It's very,  
19 very hard to move it. It becomes almost 100 percent  
20 compacted. In other words, it's like a rock. If you try  
21 to drill in it or dig in it with a backhoe or a trencher,  
22 you will have a hard time. I say that from experience,  
23 okay, not from science. I don't have any science to back  
24 any of this up.

25                   It just seems to me like the first thing we

1 need to do is make sure that they're doing this in good  
2 faith, which means it's going to stay shallow water and  
3 not become a 40 -- or deep chute as deep as the river  
4 itself. It's going to be shallow water habitat because  
5 that's what they all start out as is a shallow water  
6 habitat and the next thing you know they're deep and then  
7 they're interfering with barge traffic.

8                   Maybe we can use this dirt to do some good  
9 and then put some -- find out how they plan on maintaining  
10 the project after they've done it. That's all the  
11 comments I have. I don't know if it helps or not, but it  
12 makes me feel better. Thank you. Any questions?

13                   CHAIRMAN HUNTER: I've got one. You say  
14 they're no longer shallow water habitat?

15                   MR. MASURT: It has water in it more than  
16 just at low river stages. Shallow water habitat is  
17 supposed to be only with water in it low stages and have  
18 some pockets that are deeper that they use for fisheries.  
19 Now, I'm under the impression that it's been left flow  
20 long enough without anything to restrict it that it's no  
21 longer shallow.

22                   Like I say, I'm not an engineer. I'm not  
23 I'm not a riverboat captain. I just know that what I  
24 understand is that when certain times of the year that if  
25 it's not watched, that sand and stuff will come out into

1 the river and they have a hard time getting the barge up  
2 through there, unless something happens, unless they do  
3 something to maintain it.

4 CHAIRMAN HUNTER: Well, do you think that  
5 there's a possibility that this could become the main  
6 channel at some point?

7 MR. MASURT: Sure. If they don't maintain  
8 it, it could. If you look at the plans, there's a dike to  
9 be put there, and --

10 CHAIRMAN HUNTER: That was never built?

11 MR. MASURT: That was never built. It's on  
12 the new plan, and it's -- the way it was described to me  
13 is this is the kind of dike we put at sloughs to make them  
14 fill in or hold their depth when they originally brought  
15 the channel under control.

16 Now, in my area, since you asked more  
17 questions, we have such a chute. It was shallow habitat,  
18 and we have -- part of the dike was modified so that it  
19 would be a little deeper habitat. It now carries as much  
20 or more water than the main channel. It's eaten away at  
21 the levee banks or the banks along the river, and the  
22 farmer along there has had to move his levee back three  
23 times. And the answer is, well, we put all these dikes in  
24 there that could turn the water away. It cost a lot of  
25 money. We can't afford to continue to do this. But

1 instead of putting the dike back out on the end where it  
2 was put originally to create that shallow water, we're  
3 spending our money doing something that won't do it, and  
4 it makes it look too expensive.

5                   Now, this is all my opinion. I understand  
6 I'm not an -- and now it's -- now it's become a big  
7 argument about whether this was natural or not or what it  
8 was. Well, we're a long way from natural. I don't want  
9 to go back to natural. I don't want to live in a tent. I  
10 don't want to forage for my food, and I don't want to walk  
11 from New Haven to Jeff City. So I don't want to go back  
12 to 100 percent natural.

13                   So it's all a judgment call, and whoever's  
14 in control gets to make that judgment call. When we  
15 change the height of our dikes and change the maintenance,  
16 it's a judgment call by whoever's in charge at that time.  
17 If you look back, the dike heights have been changed over  
18 the years.

19                   We don't have any sandbars hardly at all  
20 anymore for the public to play on on the Missouri River.  
21 You notice that? I don't know whether you guys run up and  
22 down the river or not. They've been removed by notches  
23 and stuff because they want to make the river wider.

24                   So like I say, I'm not a science. I'm just  
25 a farmer that has an opinion, and if I can help in any

1 way, I would sure try. Any questions? Other questions?

2 CHAIRMAN HUNTER: Thank you very much.

3 Steve Taylor.

4 MR. TAYLOR: Good morning. My name is  
5 Steve Taylor. I'm the president of the Missouri Agri  
6 Business Association, and basically our members are ag  
7 retailers that provide fertilizer products to ag  
8 producers, and our members are also fertilizer  
9 distributors and manufacturers.

10 We are generally supportive of the idea to  
11 reposition the shoot. However, we strongly oppose  
12 Alternative No. 4. And this morning I'll just briefly  
13 summarize a couple points from our written comments.

14 Basically we focus on the hypoxia issue,  
15 and I'd like to -- we get really specific with the  
16 numbers. The most comprehensive and authoritative  
17 scientific review of hypoxia and EPA's hypoxia action plan  
18 was conducted by EPA and their scientific advisory board  
19 in December 2007. I'd like to emphasize two reports -- or  
20 two key points.

21 First, the Corps' shallow water habitat  
22 projects, such as Jameson Island, will increase  
23 contributions of phosphorus to the Gulf of Mexico and  
24 represents nearly one-fourth of the total phosphorus  
25 loadings allowed under the EPA Gulf Hypoxia Action Plan.

1 Now, the numbers from this is directly from the EPA  
2 scientific advisory board report, and it's also from the  
3 National Research Council report.

4                   The facts are that the total -- from these  
5 reports, the total phosphorus to the Gulf averages 154,000  
6 metric tons a year. The national goal is to reduce  
7 phosphorus by 45 percent or no more than 68,000 metric  
8 tons a year. To corps' shallow water habitat projects  
9 will increase total phosphorus load to the Gulf as much as  
10 19,400 metric tons a year. This represents one-fourth of  
11 EPA's hypoxia plan.

12                   Now, we realize it's been characterized by  
13 the Corps and the council that these are relatively small  
14 amounts and have a small effect. The fact of the matter  
15 is, though, it does represent a fourth of the hypoxia  
16 plan.

17                   Now, the second key point. There's a lot  
18 of us that are incurring huge cost to implement EPA's  
19 hypoxia plan. Agriculture and point sources such as  
20 municipal wastewater treatment plants incur huge costs.  
21 These represent for treatment plants equipment upgrades.  
22 For agriculture it's either management practice or taking  
23 land out of protection. That's a huge cost to us.

24                   Water quality trading programs are under  
25 development by EPA and USDA, and these trading programs

1 provide a clearing price for the cost of reducing the  
2 amount of phosphorus, and these programs are meant to  
3 promote state water quality and reduction of hypoxia.  
4 So if we look at these water quality trading reports, as I  
5 documented in my written comments, under a comparable  
6 water quality trading program the Corps would have to  
7 spend \$746 million to offset the amount of phosphorus they  
8 are contributing to the Mississippi River basin, same as  
9 all the rest of us are expected to incur these costs,  
10 reduce the amount of phosphorus we are contributing to the  
11 hypoxia problem.

12                   These are just facts. However you want to  
13 characterize them, these are coming right out of the  
14 scientific advisory board of EPA and the Natural Resource  
15 Council.

16                   So in conclusion, our comments are we  
17 support the project as far as repositioning the chute. We  
18 are against the Alternative No. 4. We feel the Corps is  
19 no different than any other contributor of the phosphorus,  
20 and we would suggest that the Corps -- again, we are  
21 against the dumping, but if that's the way it goes, then  
22 the Corps should join EPA and USDA in developing a trading  
23 program where the phosphorus loading could be  
24 appropriately quantified, costed and mitigated.

25                   I appreciate the opportunity to comment.

1                   CHAIRMAN HUNTER:  Anyone have any  
2  questions?  Thank you, Steve.

3                   Joe Gibbs.

4                   MR. GIBBS:  I have a handout for each of  
5  you.  My name is Joe Gibbs.  I am a registered engineer in  
6  the state of Missouri.  I've been working in the  
7  floodplain with farmers for over 40 years.  I appreciate  
8  this opportunity and all the efforts of you-all coming  
9  together and then holding -- having this opportunity for  
10 us to express our comments on this.

11                   The handout that I gave you, handed out,  
12 has a triangle on one side and the levee patterns on the  
13 other.  The triangle side is the one I want to refer to  
14 first.  I've been listening to presentations on Jameson  
15 Island ever since the chute was starting to be build, and  
16 it seems like from those presentations and comments, that  
17 things have kind of settled down to these issues here and  
18 how I look at them.

19                   Not necessarily in any order of importance,  
20 but going to the top of the triangle, on the left, the  
21 issue is to allow the discharge of earthen material into  
22 the river just for conservation work, and yet on the other  
23 land requiring everybody else to have and live by  
24 different, more stringent requirements.

25                   Going down to the right-hand corner, there's been

1 comments made that kind of counterbalance each other,  
2 presentation that there's a reduction in the material in  
3 the river because of the dams, and, therefore, ignore that  
4 and go ahead and put more material in the river isn't  
5 going to hurt anything, but at the same time the other  
6 comments go around hypoxia and ignoring the consequences  
7 of that.

8                   The other thing that as an engineer, and I  
9 have quite a few permits that I've had to get from DNR  
10 over the years, and from the Corps of Engineers, and that  
11 is to allow the discharge of earthen material in the  
12 river. Is this really then the beginning of allowing  
13 anybody to discharge anything into the river no matter who  
14 you are?

15                   And so I kind of -- it could have been a  
16 square or a pentagon or a hexagon, but it ended up kind of  
17 being a triangle. But that's how I see the issues here.  
18 Alternative 3 to me is the only one that can avoid the  
19 controversies here and keep things consistent as far as  
20 pollution control and discharges are concerned.

21                   Turning the drawing over, on the back side  
22 I have a partial mapping of the floodplain, emergency  
23 floodplain provided by the Corps of Engineers. The date  
24 on it was March the -- in 1977. The heavy dark line in  
25 the middle is the page break where I had to glue the two

1 of them together, but it shows Jameson Island and the  
2 levees that were in existence at that time and how it was  
3 operating.

4                   Wish to point out in reference at the top  
5 of the drawing to the left is a little burg of Lisbon, and  
6 then that levee up there where the 51 is, those levees are  
7 either completely gone or they're certainly nonfunctional  
8 because that's where the Lisbon chute comes in.

9                   Going down to the Jameson Island, you can  
10 that there was a well-leveed area there. There are county  
11 roads indicated there that went through that area. And I  
12 don't have any record of the crop history on that, but  
13 given the heavy black lines, there was a levee system in  
14 existence there, and there was cropping that was taking  
15 place.

16                   You can see where there are two levee  
17 systems had come down through the middle of the island,  
18 and those are now grown up heavily all around the edge  
19 with extreme or let's say first generation timber. By  
20 using Google Earth, you would -- today you would find that  
21 the entire island is covered with trees.

22                   Also the same case up in the Lisbon bottom,  
23 too. That is why I'm really in favor of Alternative 3.  
24 I'll try to keep cutting it shorter. It keeps the  
25 material on the -- on the land. But as far as a tree

1 cover is concerned, and I had a PowerPoint presentation  
2 but it showed trees today, but the entire area there has  
3 got trees 50 to 60 feet tall.

4                   The construction sites around the existing  
5 Jameson chute have now got growth in the neighborhood of  
6 10 to 15 feet tall. So I'm really not concerned about and  
7 would not be concerned about the reestablishment of timber  
8 and trees on that particular area.

9                   The second thing that I wanted to talk  
10 about was the design that the Corps has for the diversion  
11 dike. I certainly support the idea of extending the chute  
12 so that the water is discharged more in alignment with the  
13 channel downstream, but I don't believe that dike, that  
14 diversion dike is high enough.

15                   I'm recommending that it's -- it's set  
16 right now at roughly 14-foot river stage, which is a  
17 frequent stage experienced on the river, and yet I think  
18 it should be raised to somewhere in the neighborhood of  
19 about 19 feet on the Boonville gauge.

20                   Near the bottom of the drawing of the  
21 levees there, and I don't have the Jameson chute drawn on  
22 here, but across there is the levee system for Howard  
23 County. That levee system extends for 25 miles, and if  
24 water gets in there, then it goes for 25 miles before it  
25 gets back in the river at Rocheport.

1                   And that concludes my presentation. Thank  
2 you very much. I'm also a board member of the Missouri  
3 Levee and Drainage District Association, the Upper  
4 Mississippi/Illinois/Missouri River Association, and am  
5 the district engineer for several levee and drainage  
6 districts between St. Louis and Holt County. Thank you.

7                   CHAIRMAN HUNTER: Anyone have questions for  
8 Joe. Thank you very much. Next is David Riegel.

9                   MR. RIEGEL: My name is David Riegel. I'm  
10 a dairy farmer down at Washington, Missouri. My brothers  
11 and I run one of the largest dairies in the state of  
12 Missouri.

13                   I've got some concerns about this whole  
14 deal. I didn't know nothing about it and I started  
15 getting these e-mails about dumping soil in the river, and  
16 I just passed it by and it kept coming back. I thought,  
17 man, this just doesn't sound right. So I called some of  
18 my fellow farmers up and asked them what the whole deal  
19 was about, and they said, hey, we're supposed to have a  
20 meeting on this thing. I said, well, I don't usually go  
21 to these things, but it's a concern of mine.

22                   So every year at the farm -- we farm maybe  
23 about 1,500 acres, and every year at the farm in order to  
24 be eligible for the government programs, we have to put a  
25 plan in on our -- for our crops, and if we do -- as far as

1 erosion control. If we don't meet up to the government's  
2 criteria on control of erosions, we are not eligible for  
3 any programs, which is viable to keep our organization  
4 going.

5                   So naturally I say, well, if it's good for  
6 me, it should be good for everybody else. Take that for  
7 what it's worth.

8                   Also, one of the subjects that I think is a  
9 common sense approach, and I never heard anybody bring it  
10 up yet, but whenever the water goes into the Missouri  
11 River, of course it comes -- most of it comes out of the  
12 sky. It will start flowing down the streams. It will  
13 meet up with some leaves, carry the leaves, a few tree  
14 branches, and along the way it forms a sediment, sort of a  
15 humus-type soil which starts promoting organism growth and  
16 small fish, and it's to the ecosystem of the river.

17                   Now, my opinion, if you take what I would  
18 call raw dirt and dump that into the river, you're really  
19 creating a bad scene for an ecosystem promotion. And I'm  
20 not sure how many miles and miles of river that ecosystem,  
21 dumping that dirt in will devastate the ecosystem in that  
22 river. I don't know. I'm sure there should be some  
23 studies made it on, how long it will take for that river  
24 to get up to a normal river ecosystem.

25                   But to me, it would be devastating for the

1 initial first given many miles to that river ecosystem. I  
2 know you're trading one thing for another, but trying to  
3 solve one problem, I think you're really creating another  
4 problem. Like, I think that's No. 3 they're talking about  
5 to move the dirt to higher ground. And if they say it  
6 doesn't happen, it's just like with us, the inspector  
7 comes by and says our system does not work and I say,  
8 well, we can't make it work. He said, that's not my  
9 problem.

10                   So if you guys -- if they come up to you  
11 and say take 3 or 4 and you don't like either one, go back  
12 to the drawing board. It's not my problem. We don't like  
13 this. Think of something else. It's just the way it  
14 operates in good old USA.

15                   But also, I really am concerned and I know  
16 it's nothing to do with this, but amount of money that's  
17 being spent on the upkeep and maintenance on the river  
18 versus the recreation and stuff. We're really -- whenever  
19 our levees blow out down there, we have no idea whether  
20 they're going to be rebuilt or not. There's such a low  
21 amount of money that's available to help us out.

22                   I think we need to get our checks and  
23 balances a little bit back to where they were. I know we  
24 need our recreation, we need our -- for the habitat of the  
25 river, but we've got to keep everything a little bit on

1 the common sense side, that everybody gets a fair shake  
2 out of this and we keep buying good old USA food. We  
3 don't want to be buying cows milk from India from ox. We  
4 want good USA quality food, and we're doing as good as we  
5 can. Thank you guys. Any questions?

6 CHAIRMAN HUNTER: I have one. Now, you say  
7 when your levees blow out, you don't know if they will be  
8 rebuilt?

9 MR. RIEGEL: Right.

10 CHAIRMAN HUNTER: Are those federal levees?

11 MR. RIEGEL: Yes. No, they aren't.  
12 They're state levees.

13 CHAIRMAN HUNTER: They're not private  
14 levees?

15 MR. RIEGEL: No. Right. They're not  
16 private levees, right. But in the previous years, we've  
17 had that situation, and I -- maybe it's gotten all better,  
18 but I really hate -- I don't think so with the budget  
19 restraints that I've seen appropriated for those  
20 situations.

21 And, you know, we really need to keep our  
22 priorities straight. We've got to keep the animals happy,  
23 but we've got to be producing our own food. Agriculture  
24 is No. 1 in Missouri as far as income, and I think we just  
25 can't shrug that on the side. We've got to keep our

1 checks and balances in place and keep some money -- keep  
2 the farmer going, too. Thank you.

3 CHAIRMAN HUNTER: Thank you, David. Next  
4 is Greg Poleski. It has been suggested that perhaps  
5 everyone who still is on the list to comment might simply  
6 want to turn in a written comment. I would be more in  
7 favor of continuing until we finish everyone who wants to  
8 speak.

9 So I think that's what we will do, unless  
10 something really changes. We're going to run late, but  
11 everybody here will be late. So if you'd rather not  
12 speak, you can simply come up and tell us and we'll  
13 scratch you off the list.

14 COMMISSIONER COWHERD: Sam, some  
15 commissioners are wanting a short break.

16 CHAIRMAN HUNTER: Okay. Can we wait until  
17 after this?

18 COMMISSIONER COWHERD: Let's have him and  
19 then take a short break.

20 CHAIRMAN HUNTER: Keep in mind, Greg, the  
21 longer you go, the less they're going to --

22 MR. POLESKI: I understand completely.  
23 Thanks for your time, and I'll make it sweet and short.  
24 I'm Greg Poleski. I'm from Maryland Heights, Missouri,  
25 representing the Sierra Club. It's a real pleasure to

1 come and speak before you and have this wonderful audience  
2 here all interested in our rivers.

3                   This is the official statement from the  
4 Sierra Club and I'll take a few minutes to talk on my own.  
5 Thank you for this opportunity to comment on this project.  
6 I am here representing the Missouri chapter of the Sierra  
7 Club. Our approximately 8,400 members in Missouri greatly  
8 value our state's namesake river.

9                   We are well aware that the multiple  
10 purposes or the multiple benefits of the Missouri River  
11 provides to our state and the multiple purposes we ask it  
12 to serve. As a result of the many demands we make on this  
13 great river, its role as a dramatic and diverse habitat to  
14 the many native species has been greatly impaired.

15                   We view the Corps' current proposal to  
16 restore additional shallow water habitat around the chute  
17 at Jameson Island as a valuable contribution to creating a  
18 more vibrant river section in our state. This project  
19 will create an enhanced habitat without harming other uses  
20 of the river. This project creates habitat for the  
21 endangered pallid sturgeon, thus helping fulfill our  
22 responsibility to pass on to future generations a  
23 healthier river with a healthier population of this  
24 ancient agent.

25                   The Corps has taken several steps to

1 address concerns raised about sediment removal in this  
2 project. The report by the National Academy of Sciences  
3 establishes that the Corps' proposed handling and transfer  
4 of sediment back into the river is the best available  
5 alternative and mimics the historic -- the river's  
6 historic sediment load.

7                   Storing the sediment on land on the island  
8 would be costly and horrible to existing habitat and it  
9 would likely return to the river through natural  
10 processes. Thus, we support the Corps project with the  
11 preferred Alternative 4 being the best option.

12                   I've been working 20 years on our rivers  
13 and streams as a volunteer. This is the first time I've  
14 really kind of came out of the St. Louis metropolitan area  
15 to come down here. That's how important I think this is.  
16 I'm a Sierra Club member. I'm supporting a Corps of  
17 Engineers project. Think about that. I think that's  
18 something to really think about.

19                   I've been working with Tom Bell since the  
20 refuge has been on paper, and this is really a good  
21 project that will enhance our river. We have been just to  
22 declared the great river state. I think that's -- this is  
23 something that will help us maintain that. At the same  
24 time we have to look at the Missouri River has been  
25 declared an endangered river by the American Rivers, which

1 is a nationwide group with a lot of respect throughout the  
2 world.

3                   So I think this will help us address the  
4 problems that our rivers face. At the same time, we can  
5 respect the shareholders and the people who work on this  
6 river. I don't think that this project will interfere  
7 with that.

8                   I really had suspicions, to say the least,  
9 about what was talked about dumping this sediment in the  
10 river. So I did my courses on this, and, you know, I have  
11 to agree, particularly working with people. This has been  
12 a learning process for 20 years. I hope I can work  
13 another 20 years. Maybe by then I'll half an idea of what  
14 you guys face every day of learning about this stuff.

15                   But I think that this project should move  
16 on as Alternative 4 and we can really improve our  
17 rivers. Thank you for your time.

18                   CHAIRMAN HUNTER: We'll take a break now  
19 for ten minutes and we'll start again the public comments.

20                   (A BREAK WAS TAKEN.)

21                   CHAIRMAN HUNTER: At this time we'd like to  
22 start the meeting again, please. If Tom Bell is still  
23 here, we have one question a member would like to ask,  
24 please.

25                   COMMISSIONER WARREN: It's just that I've

1 heard repeatedly obviously the recommendation of taking  
2 the soil and spreading it and planting it, seeding it, and  
3 I just wanted to know if you'd have any idea the impact to  
4 the -- to the -- I mean to the refuge? I don't know of  
5 that's what they're talking about.

6 MR. BELL: What they're talking about is an  
7 800-foot-wide imprint in the refuge. That's a much larger  
8 impact. We don't like that. More importantly, it would  
9 be a permanent impact. What it amounts to is two  
10 permanent levees. The Corps' calculated the numbers, said  
11 it needs to be 15 feet high. We just can't live with that  
12 on that refuge. That would cause probably more harm than  
13 good.

14 So to create two levees that are there  
15 forever where there aren't any now would disrupt sheet  
16 flow, fill wetlands. It would be -- on those projects you  
17 avoid, minimize, mitigate. We wouldn't be doing any of  
18 that.

19 COMMISSIONER WARREN: Well, I think that  
20 some of -- the predominant recommendation was to take the  
21 soil, spread it and seed it from people who've commented.  
22 And I just was curious in the refuge area. Obviously it  
23 wouldn't work -- in my mind, it wouldn't work in a  
24 wetland. You're defeating the purpose of a wetland. But  
25 they say, well, surely there's some area that you can put

1 that. But since it's a refuge, is there any other place  
2 without major impact to the refuge itself?

3 MR. BELL: There's not really any place to  
4 take it. It's all timbered. There's shallow water  
5 wetlands scattered all through it. The river's kind of  
6 sculpted that bottom. It's no longer as flat as it once  
7 was. Again, you'd be constructing two more levees  
8 essentially. They wouldn't be tied off on either end, but  
9 they'd be two long levees parallel to that side channel.  
10 It wouldn't allow the channel to migrate back and for like  
11 we'd like it to, like it needs to actually to perform the  
12 functions it's supposed to perform.

13 COMMISSIONER WARREN: So there is not a way  
14 that that recommendation can be carried out to spread the  
15 soil and seed the soil?

16 MR. BELL: Not as it's currently written.

17 COMMISSIONER WARREN: Thank you.

18 CHAIRMAN HUNTER: It's my understanding  
19 that these are only alternatives and can be tailored  
20 perhaps to fit other scenarios. Is that not right?

21 MR. BELL: That's probably a question for  
22 the Corps.

23 COLONEL HOFMANN: I'd like our -- at the  
24 end, sir, when we do our Q and A piece, we'll address  
25 that, if that's okay.

1                   CHAIRMAN HUNTER: Sure. Thank you. Next  
2 we have Steve Schnarr.

3                   MR. SCHNARR: Thank you guys for the  
4 opportunity to give my opinion for what it's worth.

5                   CHAIRMAN HUNTER: Steve, may I ask, are you  
6 affiliated with an organization?

7                   MR. SCHNARR: I do work with a Missouri  
8 River organization, Missouri River Relief. Today I'm  
9 speaking on behalf of myself as a private citizen that  
10 lives and works on the Missouri River.

11                  CHAIRMAN HUNTER: That's fine.

12                  MR. SCHNARR: I'll explain that in just a  
13 second. Thank you guys for the opportunity, and even  
14 though everyone's behind me, thank all of you for sharing  
15 your thoughts and knowledge on this really important  
16 topic. It's only a mile chute we're talking about, but it  
17 really has a lot to do with how the river will be managed  
18 going forward.

19                  I do work for Missouri River Relief. We're  
20 a nonprofit organization that organizes river cleanups and  
21 education events in five states along the Missouri River.  
22 Picking up trash from our river is something that everyone  
23 can agree with. Cleanups are a great way that people with  
24 different views on river policies can work together and  
25 for -- for that reason, we don't as an organization take a

1 stand on river policy issues. That's why I'm only  
2 representing my personal views today. And the fact that  
3 we have partners that we've worked with on all sides of  
4 this issue here in the room I think shows that that's kind  
5 of a good way for us to go as an organization.

6 I do want to share my particular  
7 experiences on the river because I spend a lot of time on  
8 the river. I live next to the river. When I take people  
9 out on the river by boat or canoe and I want to show them  
10 interesting places on the river, one of the first places I  
11 go is Plowboy Bend Conservation Area, and that's one of  
12 the oldest Corps mitigation sites in the mid Missouri  
13 area, and there's several along there, an area that's been  
14 allowed to erode away and create kind of several different  
15 channels and several different levels of sandbar, sandbars  
16 next to the river.

17 These Corps mitigation sites are the most  
18 interesting places to visit on the river and if you're  
19 someone just going to check out interesting places. When  
20 we take forest ecology students out, we take them to  
21 Plowboy Bend Conservation Area. It's one of the few  
22 places you can see all the levels of riparian forrest  
23 succession all in one place. It's a very educational  
24 place.

25 There's also a little island created there

1 that we call Dragonfly island. It's where I've seen the  
2 largest hatch of dragonfly larvae that I've ever seen on  
3 the river. It's amazing. There's another one we call  
4 Pelican Island. It's where the pelicans always go hang  
5 out. The wildlife loves these areas, and people enjoy  
6 them, too.

7                   The sandbars that ring the outside of  
8 Jameson Island are famous amongst people that like to  
9 travel on the river. That's a place to go look for cool  
10 rocks in the river and a place to get in touch with the  
11 spirit and history of the river.

12                   Now, I know Bill Jackson talked earlier and  
13 that particular spot is annoying to the navigation  
14 industry, and it just brings up one of those conflicts  
15 that we continually have to work on when we're working on  
16 the Missouri River if we want to continue to make progress  
17 in all of the authorized purposes.

18                   I personally -- I support sensible habitat  
19 restoration on the river on public land where it doesn't  
20 affect private interests and where it's guided by science.  
21 I think that it's an investment in the future health of  
22 our river, and it's an important step that -- an important  
23 thing that we continue to move forward on that.

24                   In order to be sustainable, though, these  
25 projects need to anticipate future conflicts between other

1 authorized purposes on the river such as navigation and  
2 flood control along adjacent farms. Restoration can exist  
3 in partnership with navigation and these other authorized  
4 purposes, and we need to let science guide that. That's  
5 my own optimistic belief that probably a lot of people  
6 don't share.

7                   Because of the questions raised by the  
8 Clean Water Commission and others, such as the Howard  
9 County Levee District, the Corps is, I think, doing a  
10 better job of communicating with other stakeholders in  
11 this particular issue, and I think this is crucial and I  
12 hope it keeps improving.

13                   Because the Missouri River is a river is  
14 erosive in its very nature, I hope that the Clean Water  
15 Commission will not create an unrealistic and shortsighted  
16 ruling that attempts to stop all erosion along the river.  
17 Some level of erosion and deposition is inevitable, and  
18 it's also healthy to the river.

19                   I am definitely not a scientist or any kind  
20 of expert on the river, and I've had a hard time looking  
21 at these different alternatives, figuring out which I  
22 would support as an average citizen, and I sort of have  
23 caveats on all of them. I think other people here share  
24 that.

25                   I do support Alternative 4 along with

1 aspects of all the others, but it seems to me that the  
2 science is pretty clear that when you take into account  
3 the whole river system, that this sediment being added to  
4 the river is relatively minimal and, in fact, creates  
5 certain small benefits to the river.

6                   And the other reason why I support  
7 Alternative 4 is I know the Jameson Island refuge is one  
8 of the few really beautiful full forested bottomlands of  
9 cottonwood and sugar maple, elm along the river. It's  
10 kind of a treasure, and we don't really want to mess  
11 around with that too much so it creates less impact for  
12 that.

13                   And I'll stop there. My time's up. Thank  
14 you all, and thank you guys for thinking so critically and  
15 carefully about all these issues.

16                   CHAIRMAN HUNTER: Thank you, Steve. Next  
17 is Tom Payne.

18                   COMMISSIONER COWHERD: I think I saw Tom  
19 leave a moment ago.

20                   CHAIRMAN HUNTER: Okay. Diane Oerly.

21                   MR. OERLY: Hi. For the record, it's  
22 Oerly, O-e-r-l-y.

23                   COMMISSIONER COWHERD: Spell that gain,  
24 please.

25                   MR. OERLY: O-e-r-l-y.

1 COMMISSIONER COWHERD: Thank you.

2 MS. OERLY: I'm president of the Friends  
3 Organization for the Big Muddy National Fish and Wildlife  
4 Refuge. The refuge is 11 units that are stretched across  
5 the state of Missouri to help restore the river to a more  
6 natural habitat, and our friends group is trying to raise  
7 awareness. So we appreciate the attention on Jameson  
8 Island.

9 And I just want to clarify that I'm here as  
10 an individual. I'm not paid by any means. In fact, I had  
11 to take vacation to come here. But I appreciate the  
12 opportunity to spend some time in a room full of people  
13 who care about our river, who understand the value and  
14 appreciate the value and care about our river.

15 While we may vary in short-term  
16 perspectives about short-term decisions, I trust that we  
17 all want the same thing. We all want a long-term  
18 sustainable Missouri River that can support generations of  
19 future Missourians.

20 I want to thank each of you for your  
21 service and your concern for water quality. The actions  
22 that you took or the Commission took, which I'm sure were  
23 not easy, were important, and the quality of the water is  
24 critical. Two-thirds of Missourians drink out of the  
25 Missouri River or her aquifers, and 80 percent of our body

1 is water. So we need good quality water, and I thank you.  
2 I want to thank you for the knowledge that was gained  
3 because of your actions.

4 I also want to thank the National Academies  
5 of Science. I highly respect the work that they do, and  
6 through their efforts we can better understand our river.  
7 I want to thank the Corps. They've been a good partner  
8 along the refuge, and we have collaboratively worked to  
9 try to enhance the river's habitat.

10 As the elected official from Holt County  
11 indicated, the Missouri River will not be kept in a ditch.  
12 It's a riverine system. It requires shallow water  
13 habitat. It will eventually create it if we don't  
14 encourage and try to manage that process.

15 It's been mentioned several times this  
16 morning that Missourians value our great outdoors. We're  
17 willing to pay our taxes and preserve and protect our  
18 natural habitats, and how we do that has changed over the  
19 years. We've studied. We value and learn from the best  
20 available science. We know that our rivers are not all  
21 the same and the soils are not all the same. We gain  
22 knowledge. We're smarter, and we act accordingly  
23 collectively to protect our natural resources.

24 And I ask you to do the same. Use the  
25 knowledge that has been gained and take action to protect

1 and achieve a long-term sustainable river system.

2 I guess for the record, Alternative 4 would  
3 be the one that I would be in favor of. Thank you very  
4 much.

5 CHAIRMAN HUNTER: Thank you, Diane. Anita  
6 Randolph.

7 MS. RANDOLPH: Patricia Hagen has asked to  
8 speak also.

9 CHAIRMAN HUNTER: You'd rather Patricia  
10 Hagen take your spot?

11 MS. RANDOLPH: I would like for her to  
12 speak first, and then I would like to make brief comments  
13 following her remarks.

14 CHAIRMAN HUNTER: Yes, that's fine.

15 MS. HAGEN: Thank you all. Thanks for  
16 having this hearing. Thanks for allowing us all to speak.  
17 My name is Patricia Hagen. I'm the vice president of  
18 Audubon Missouri, and I also am a public policy scientist.  
19 I teach policy science at university in the state.

20 The Missouri River basin once contained  
21 complex habitats for almost 160 species of wildlife and  
22 more than 150 species of fish. Today the Big Muddy is no  
23 longer slow, meandering and full of the sediment that  
24 inspired its nickname. The river has been transformed  
25 into a series of deep cold water reservoirs in Montana,

1 North Dakota and South Dakota, and a narrow fast-flowing  
2 between Nebraska and Iowa and through Missouri.

3 Bank stabilization projects and the  
4 creation of reservoirs eliminated more than 3 million  
5 acres of river habitat. Straightening the river has  
6 damaged natural river systems, wetlands, floodplains and  
7 sandbars, and has endangered more than and 80 species of  
8 plants and wildlife.

9 As a conservation organization, we believe  
10 river restoration needs to be supported, and we also know  
11 that river restoration and river management is an  
12 extremely complicated issue.

13 The Corps of Engineers is charged by the  
14 citizens of this country to manage these great rivers as a  
15 system for the good of the country, for the good of water  
16 quality, and for the multiple purposes for all of the  
17 rivers, including habitat.

18 We understand that there are multiple uses  
19 of our great rivers and that we are facing challenges that  
20 have been brought on by our own human attempts to manage  
21 them. So we do study river issues thoroughly, and we do  
22 look for good science. We've studied the information  
23 related to the Corps of Engineers' Jameson Island project,  
24 the National Research Council report and the Corps'  
25 project response to the recommendations, which hasn't been

1 talked a lot about here today. They did take into account  
2 in their planning what the NRC recommended for them to do  
3 to strengthen their project.

4                   We've concluded that the Corps' project and  
5 the Corps' preferred project alternative, Alternative 4,  
6 should be implemented. The Corps has estimated that  
7 approximately 522,000 acres of riverine habitat has been  
8 lost as a result of the Missouri Riverbank Stabilization  
9 and Navigation Project. Of those 522,000 acres, over  
10 300,000 acres have been lost in Missouri alone. Of all  
11 the states along the river, Missouri has borne the brunt  
12 of fish and wildlife losses as a result of the Riverbank  
13 Stabilization and Navigation Project.

14                   Now this Alternative 4 has controls and  
15 monitoring protocols in place to assess project  
16 implementation, including the effects of the sediment  
17 allowance into the river, and the Corps has the means at  
18 hand, unlike any other organization, equipment, expertise,  
19 science, funding, et cetera, to adaptively manage the  
20 project, adaptively manage, and that means respond to how  
21 the project is being implemented as it goes, based on the  
22 results of its monitoring.

23                   And we must keep in mind that environmental  
24 restoration is mandated because of the damage done by the  
25 Riverbank Stabilization and Navigation Project.

1                   In addition, this current plan will provide  
2 vital information and insights for successful adaptive  
3 management and assessment of this and all other future  
4 restoration projects along the Missouri River.

5                   Finally, the NRC analysis reminded us that  
6 it is important to consider the receiving water  
7 characteristics in order to correctly make assessments  
8 regarding sediment. For example, the natural chemical and  
9 physical condition of each specific water body and the  
10 associated water quality requirements of its resident  
11 aquatic life are elements for consideration.

12                   So it's important to ensure decisions are  
13 formulated to enhance and protect native species, aquatic  
14 life, and other designated beneficial uses. Since the  
15 Corps has responded to concerns expressed about this  
16 project with thorough study by the nation's top river  
17 scientists, not just one man's opinion, a panel, the  
18 highest scientific panel in the country, as well as  
19 project amendments to address these scientific findings,  
20 Audubon firmly believes that it's now time to move on with  
21 this project and allow the Corps to fully implement the  
22 project using Alternative 4. Thank you.

23                   CHAIRMAN HUNTER: Thank you very much. And  
24 now Anita.

25                   MS. RANDOLPH: Thank you so much for the

1 opportunity to speak today. My name is Anita Randolph. I  
2 am president of the board of trustees of Audubon Missouri,  
3 and I just wanted to briefly reinforce Dr. Hagen's  
4 comments. We do support Alternative 4 for the Jameson  
5 Island project for the reasons that the project will help  
6 with flood control, filtration of pollutants.

7                   It does, further, a more comprehensive  
8 approach to Missouri River management, a watershed-based  
9 approach, and certainly does enhance habitat restoration  
10 and increase habitat diversity, which has a number of  
11 benefits of its own, such as improved habitat and living  
12 conditions for birds, fish and wildlife.

13                   So thank you very much for the opportunity.

14                   CHAIRMAN HUNTER: Thank you. Brook Spear.

15                   MS. SPEAR: Hi. My name is Brook Spear,  
16 and today I'm speaking on behalf of Great Rivers  
17 Environmental Law Center in support of the Corps' Jameson  
18 Island habitat restoration project.

19                   The issue that must be considered in  
20 deciding whether the project should go forward is what  
21 effect it will have on our state's water quality. As  
22 everyone is aware, the Corps discontinued its Jameson  
23 Island project in 2008 for releasing sediment into  
24 Missouri's waters.

25                   Sediment may rightly be considered a

1 pollutant under the Clean Water Act, and we recognize that  
2 the Commission had legitimate concerns with whether the  
3 project harmed water quality at the time it made its  
4 decision.

5                   In so-called clear water rivers and  
6 streams, the introduction of sediment can have destructive  
7 effects on water bodies' ecology and aesthetics. However,  
8 in other water bodies a high sediment can be a natural  
9 historic feature. The Missouri River is an example of  
10 this type of water body.

11                   Although high sediment loads on the  
12 Missouri remained unimpeded for millions of years, it took  
13 only a little more than 50 years for the dams and levees  
14 built on the river to reduce the sediment that travelled  
15 downstream to between 20 and 25 percent of its original  
16 volume.

17                   Not only is shallow water habitat unable to  
18 develop as a result of this reduction, but the degradation  
19 of the riverbed weakens foundations of levees and bridges.  
20 Because of the reduction in sediment, Louisiana delta has  
21 lost 1,900 square miles that used to perform the function  
22 of absorbing floodwaters and hurricane storm surges.

23                   As we've witnessed these harsh effects, it  
24 has become clear that something must be done about them,  
25 and we commend the Corps in its efforts to reverse the

1 impacts of river structures.

2                   But while the goal of creating shallow  
3 water habitat is well intentioned, it's important to make  
4 sure that the means by which to achieve that goal are well  
5 thought out and derive an overall positive net benefit for  
6 Missouri's waters.

7                   Critics of the Corps' Jameson Island  
8 project point out that the sediment that will be used to  
9 build habitat is a pollutant and contains phosphorus that  
10 eventually ends up in the Gulf of Mexico, causing the dead  
11 zone.

12                   Fortunately, the NRC's independent sediment  
13 management study concluded that the Corps' shallow water  
14 habitat projects do not significantly contribute to the  
15 Gulf of Mexico dead zone. The study concluded that there  
16 would have to be at least a 20 percent increase in  
17 nutrients being delivered to the dead zone to observe an  
18 increase in its size.

19                   The upper bound estimate for what all of  
20 the Corps' projects would contribute is 6 to 12 percent.  
21 Again, this is an upper bound estimate and not limited to  
22 just the Jameson Island project. This upper bound  
23 estimate is based on the assumption that all the sediment  
24 from the Corps' projects makes it to the Gulf in a single  
25 year.

1 Under normal conditions, it would take many  
2 years for the sediment from these projects to make it to  
3 the Gulf. Furthermore, not all the sediment makes it to  
4 the Gulf because it settles out in beds and banks of the  
5 Missouri Mississippi Rivers while moving downstream.

6 Not only does the NRC report reinforce our  
7 position, but in 2007 when the project was originally  
8 discontinued, the Corps and Missouri Department of Natural  
9 Resources tested the water and the sediment at the Jameson  
10 site, only to determine that, quote, no contaminants or  
11 nutrients were found that would cause an exceedance of  
12 state water quality standards or other adverse impacts to  
13 water quality in the Missouri River.

14 Yet another study was done by the Corps  
15 between the years of 2009 and 2011. The Corps collected  
16 water samples both upstream and downstream of the Jameson  
17 Island project site. The Corps determined that the  
18 amounts of phosphorus found at the site were significantly  
19 lower than the amounts of phosphorus found upstream and  
20 downstream of the project site.

21 To conduct these tests, the Corps used a  
22 manual entitled Valuation of Dredged Material Proposed for  
23 Discharge in the Waters of the U.S. This manual was  
24 created by EPA and the Corps and is considered the best  
25 available technical guidance regarding how dredge material

1 should be tested.

2 All this evidence suggests that the Corps  
3 should be allowed to go forward with its Jameson Island  
4 project. But it's important to realize that this debate  
5 that the project has generated points to a bigger issue,  
6 which is the gap that remains in our state's water quality  
7 standards.

8 While we have water quality standards that  
9 are measured by numeric criteria, everything that is not  
10 yet delineated in that fashion must be measured by  
11 narrative criteria. Sediment and phosphorus are not  
12 covered by numeric quality criteria in Missouri. If they  
13 did have numeric limits, measuring against those would be  
14 the most accurate way to determine whether or not water  
15 quality is hurt or benefited by the Jameson Island  
16 project.

17 When evaluating the water quality standards  
18 as written, the only criteria that could apply to sediment  
19 seemed to address whether or not it will cause unsightly  
20 torpidity to the river's waters. However, it is now know  
21 that torpidity caused by sediment is a natural  
22 characteristic of the Missouri River, and the river's  
23 ecology is being crippled as a result of the diminished  
24 sediment load and torpidity.

25 Confusion that is caused by these narrative

1 standards point to how necessary the development of better  
2 suited numeric criteria is. Until that happens, however,  
3 the NRC's report is the most science that speaks to what  
4 effect the Corps' projects will have on water quality.  
5 Together with the other tests performed by the Corps and  
6 MDNR, it's quite evident that The Jameson provides an  
7 overall net benefit for Missouri River water quality.

8                   Some have expressed satisfaction with the  
9 fact that businesses have been fined for releasing  
10 sediment into Missouri's waters, and it was claimed that  
11 the Corps could be allowed to engage in the same type of  
12 activity with impunity if the project were authorized.  
13 I'm here to explain why this is absolutely not the case.

14                   The businesses cited for being fined were  
15 undertaking construction activities that involved building  
16 manmade structures. The concern with these types of  
17 operations is that when storm water runs off property into  
18 a water body, sediment that's carried along with it may  
19 contain such contaminants as bacteria, solvents and oil.  
20 The contaminants that flow with the sediment coming off  
21 these properties are the types that cause harmful effects  
22 on wildlife and human health.

23                   In contrast, the Corps is not constructing  
24 a permanent manmade building that generates all the sorts  
25 of substances the Clean Water Act was designed to

1 regulate. The Corps is taking a alluvial sediment that is  
2 natural to Missouri River's functioning from the existing  
3 banks of the Big Muddy Wildlife Refuge and remobilizing it  
4 to a river to enhance an ecosystem. Since the Corps'  
5 project has the goal of restoring habitat for a healthier  
6 ecosystem, that goal would be defeated if it caused an  
7 adverse effect to the water quality that would sustain the  
8 function of the habitat it just created.

9                   One of the purposes of the Clean Water Act  
10 is to protect wetlands. The activities undertaken as a  
11 part of the Jameson Island project will not only be in  
12 compliance with the act's restrictions but will have a  
13 proactive impact that promotes the act's goals.

14                   Most who spoke said -- in opposition to the  
15 project said they'd rather the Corps implement  
16 Alternative 3 in its project implementation report than  
17 Alternative 4, which is the Corps' recommended  
18 alternative. When evaluating the two options, it becomes  
19 clear that Alternative 3 has the most adverse impact on  
20 the area's aesthetics and ecology. Alternative 3 would  
21 impact approximately 14.9 acres of wetland as compared to  
22 the five acres that would be impacted under Alternative 4.

23                   After Alternative 3 is completed, no new  
24 wetlands would be formed. Under Alternative 4, 8.9 acres  
25 of wetland area would eventually form. Alternative 3

1 would clear 109.5 acres of riparian timber. Alternative 4  
2 would only clear 34.4 acres. The stockpiles of sediment  
3 left by Alternative 3 would completely cut off the  
4 floodplain from the shallow water habitat, and  
5 Alternative 4 would not have this effect.

6                   The most important thing to note, however,  
7 is that Alternative 3 defeats the purpose of creating  
8 shallow water habitat. Habitat decline that's taken place  
9 on the river in the last 60 years is a direct result of  
10 the lack of sediment in its water. Natural sediment must  
11 be remobilized in order to reverse this effect. Leaving  
12 it on the banks of the shoe created results in negligible  
13 benefit and the greatest environmental impact.

14                   In addition to the conclusive finding of  
15 the NRC study that historic sediment loads need to be  
16 taken into account when determining water quality  
17 standards, the Senate report that accompanied the Clean  
18 Water Act when it was put into effect supports this  
19 approach as well.

20                   The Senate report stated that in  
21 determining the proper water quality criteria, one should  
22 emphasize, quote, the importance of historical records on  
23 species composition, ecological studies and estimations of  
24 what a balanced natural ecosystem should look like when  
25 reflecting on one body's natural integrity of our waters.

1                   Also reinforcing our position is the EPS  
2 has officially endorsed the standpoint that receiving  
3 water characteristics must be considered in enforcing the  
4 Clean Water Act. The EPA guidelines also advise that  
5 water quality agencies consider downstream effects on  
6 water quality in enforcing the act.

7                   Remobilizing sediment to the Missouri will  
8 benefit habitat all the way to the Gulf of Mexico and help  
9 repair the loss of Louisiana's delta.

10                  To recap, our position that the Jameson  
11 Island project should be --

12                  AUDIENCE MEMBER: How about time, please?

13                  CHAIRMAN HUNTER. Maybe just recap.

14                  MS. SPEAR: The project is supported by the  
15 NRC's independent scientific study, the Corps' and MDNR's  
16 phosphorus monitoring studies, the EPA's official position  
17 and the Clean Water itself.

18                  Those who are in opposition to the project  
19 have provided no conclusive scientific evidence that  
20 sediment that would be used in this project harms water  
21 quality or that there will be detrimental levels of  
22 phosphorus in the sediment that will be used in the  
23 project.

24                  So we are asking the Commission to  
25 recognize the point of the study, that receiving water

1 body characteristics be taken into account when you make  
2 your decision. Thank you for your time. Do you have any  
3 questions? Sorry I took so long.

4 CHAIRMAN HUNTER: Thank you, Brook. Steven  
5 Dietrich? Jason Lynaman.

6 MR. LYNAMAN: Good afternoon. I farm  
7 approximately two miles up from the Lamine River. I farm  
8 approximately a mile down from the Jameson water chute. I  
9 have to say, I don't know all the statistics and  
10 everything. They've been spilled out pretty good today.  
11 But I can tell you from my point of view, from what I've  
12 seen, from what I've lived and sit beside the river all my  
13 wife.

14 In '73 we moved in and bought the farm,  
15 built the levee, worked with the Corps of Engineers.  
16 They've been great to work with. The Corps of Engineers  
17 built the river system to run at a certain height. What

18 I've seen since '73 along our farm, which  
19 would be on the Slaughterhouse Bend area, we have a number  
20 of dikes that have been notched out. It seems to my point  
21 of view from what I've seen on the notching of the dikes  
22 is it eats back into the bank of the river, which has  
23 created a lot of deep holes and lost a lot of dirt,  
24 riverbank.

25 I would like to say at this time, whenever

1 my dad put the levee district in and the levee system in,  
2 the total of the levee was over 250 to 300 feet from the  
3 bank of the river. There's a lot of places along our  
4 river, our levee system that you could step off into the  
5 river now. We have even moved the levee back one time,  
6 and we ended up losing around roughly 30 acres.

7                   Going back to my younger days, whenever I  
8 was younger and didn't have responsibilities and  
9 everything, I liked to hunt and fish and we did quite a  
10 bit of fishing and quite a bit of hunting. But since  
11 then, I've noticed the sandbars and so forth are not along  
12 our river like they used to be. They have disappeared.

13                   So I wonder why, and I have a feeling it's  
14 because of the notching of the dikes. But also since then  
15 we have gotten a lot more erosion of our banks along the  
16 river. I believe a lot of it is from the Jameson Island  
17 chute being put in, because when you put in a chute and  
18 you take away from the river, you're adding more volume of  
19 water coming down in a different area.

20                   It seems to me like when you added this  
21 chute and it was supposed to be a low-water chute, the  
22 things that wasn't being kept in consideration is how much  
23 more water comes down through that area during flood  
24 stages, and I don't believe that a lot of the -- I believe  
25 a lot of our riverbank erosion is from the notching of the

1 dikes and the river chute.

2                   Saying all that, I'm not an expert by any  
3 means on the flow of the river, except for what I see.  
4 I'm losing a lot of, lot of ground, and a lot of neighbors  
5 of mine have been losing a lot of ground.

6                   The Howard County Levee District has their  
7 own problems, and the biggest problem I believe that they  
8 see is the way the chute comes down and it shoots so much  
9 water against their levee that if that levee goes out, and  
10 I do know there's been rocks and hard points put in there,  
11 there is a fear that it will cause another river channel  
12 down through what they consider Howard County Bottoms.

13                   But whenever we put in these chutes and  
14 everything, nothing like that is talked about. Nobody  
15 thinks they ever will happen, but they do happen, and I  
16 don't believe we have engineered the chute in the correct  
17 way that it would -- or the agendas of the water flowing  
18 down through the river in that area.

19                   My time is up. I don't know --

20                   COMMISSIONER LEAKE: You've got a minute.

21                   MR. LYNAMAN: Well, that's all right. Any  
22 questions? Maybe I can be more specific on anything.

23                   CHAIRMAN HUNTER: Now, you're familiar with  
24 the way that the Corps has proposed that they change the  
25 outlet of the chute?

1                   MR. LYNAMAN: Yes. I'm familiar with it to  
2 a degree. I wondered why the chute wasn't made where it  
3 was dumped back in on the lower end, why it has to be so  
4 wide as what it is. I think it's a little -- you're --  
5 when you have a funnel and you pour water into that  
6 funnel, you only get so much a stream out at the bottom.  
7 That's the way the Missouri River works.

8                   But if you put that funnel there and you  
9 put another funnel right beside it, now you have two  
10 streams whenever you have a lot of water coming down  
11 through there, in other words, twice to 30 percent more  
12 river volume. That does that eddying and the cutting of  
13 the riverbanks from there on down.

14                   I know the Corps of Engineers is trying to  
15 do everything to help the environmental people and  
16 everybody, but I have to say, this area that we're working  
17 in has been a, seems to me, an experiment and we don't  
18 have any say. I appreciate being able to say this now,  
19 but it doesn't seem like any of the private landowners'  
20 land is being taken into consideration of what it's been  
21 doing to the riverbanks in that area.

22                   Just for instance, I wanted to say that  
23 whenever you drive across a bridge in Kansas City or  
24 St. Louis over the Missouri River, you can look on both  
25 sides of the river. If you notice, both banks are rocked

1 solid. When you drive across a bridge over the Missouri  
2 River in a smaller town, you'll see the eddyness and the  
3 cutting of the river and the private land that's being  
4 cuts out and deposited on down the river. Did I answer  
5 your question a little bit?

6 CHAIRMAN HUNTER: You said you were  
7 familiar, somewhat familiar with --

8 MR. LYNAMAN: Where the outlet is on  
9 Jameson Island puts direct pressure on the Howard County  
10 levee. It also is putting direct pressure on allowing  
11 more water flow down through the river through that area.

12 I don't understand why the Jameson Island  
13 and all of the chutes that are being put in have to be  
14 quite so big and so elaborate. To me, it would be better  
15 to notch them down and make them smaller so in case  
16 something was to go wrong, it would be more manageable.

17 CHAIRMAN HUNTER: What you're saying is  
18 they seem to be engineered for one specific spot instead  
19 of engineering them for the total flow that's going to  
20 be -- that's going to build up from all of the chutes  
21 together?

22 MR. LYNAMAN: Yes. But I guess what I'm  
23 really saying is, they all work great whenever you have  
24 natural flow of water. What creates all the riverbank  
25 erosion and everything is whenever the river is being ran

1 over flood stage or runs over floor stage or 60, 90 days.  
2 That's whenever your problems begin, and there's not a  
3 thing anyone can do except for let it -- it just flows,  
4 and whatever damage is done is done, and that private  
5 landowner in that area is the one who takes all the blunt  
6 of it.

7                   CHAIRMAN HUNTER: Did you-all lose any  
8 levees last year?

9                   MR. HYNAMAN: Last year I did not lose any  
10 levees. '93 we lose a levee. The Corps came in and reset  
11 the levee back for us because under our levee district and  
12 everything, they supply -- as long as you are a levee  
13 district, the Corps of Engineers will replace 80 percent  
14 of the cost of putting a levee back in. But you have to  
15 be a levee district, and to do a levee district, of  
16 course, you have to file with the State and keep  
17 everything up, and we have Corps of Engineers inspections  
18 every so many years.

19                   And to my knowledge the Howard -- well, the  
20 Howard County Levee District is a Corps of Engineers  
21 levee, and so is ours.

22                   I would like to also say, whenever we talk  
23 about environment and everything and species and  
24 everything, I've noticed with the eating of the banks of  
25 the Missouri River we have lost a lot of the cottonwood

1 trees which have been there for over a number of years,  
2 120, 200 years. Maybe not 200, but they've been there for  
3 quite some time. The other species that -- it seems as  
4 though we try to do so much for everything, we forget some  
5 of the other species that were also along the Missouri  
6 River. If they're not in the water, then they don't  
7 counsel. For instance, the bald eagles, we've lost a lot  
8 of the areas there for them to roost and to fish.

9 So anyways, thank you.

10 COMMISSIONER COWHERD: Mr. Lynaman, I have  
11 just have a couple of questions. When you say notch the  
12 dikes, what do you mean by that?

13 MR. LYNAMAN: A number of years ago the  
14 Corps of Engineers came in and notched pretty much every  
15 dike at least along our land, and whenever I say notched  
16 the dike, they went in with a track hoe and pulled a  
17 certain amount of rock out and set it up on a barge and  
18 hauled it off.

19 What that enabled the Missouri River to do  
20 was to come in and cut any of the sandbars or anything  
21 back behind the dikes. It creates an eddy or a whirlpool  
22 that goes straight down and gets pretty deep.

23 COMMISSIONER COWHERD: And you noticed  
24 quite a bit of erosion since this Jameson project chute  
25 was put in, is that what you're saying?

1 MR. LYNAMAN: Yes.

2 COMMISSIONER COWHERD: On both sides of the  
3 river?

4 MR. LYNAMAN: Yes, on both sides of the  
5 river.

6 COMMISSIONER COWHERD: And you think that's  
7 because it's increased the flow rate of the river?

8 MR. LYNAMAN: The increased flow rate of  
9 the river, yes. And whenever you add another chute, it's  
10 almost like adding another river right above us, so you  
11 add so much more flow.

12 I can even say I believe that I've noticed  
13 a difference in the river just with them replacing the  
14 Boonville bridge because they took out so many -- well,  
15 they took out two bridge piers, and I think they only put  
16 two in. I think there was four in there and they put two  
17 in there. And during high water times, I've noticed it  
18 seems like the water flows. It's not bottlenecked right  
19 there as much as what it used to be.

20 There's a long tale to whenever we go  
21 changing things in the river. Thank you very much.

22 CHAIRMAN HUNTER: Thank you, Jason. Brent  
23 Hoerr.

24 MR. HOERR: My name is Brent Hoerr. I  
25 thank you for this opportunity to speak before the

1 Commission and to speak to the Colonel and the Corps of  
2 Engineers.

3 I'm here representing three organizations.  
4 I'll talk about one first. It's the Marion County farm in  
5 northeast Missouri. The shallow water habitat and some of  
6 the ramifications of the Jameson Island project could  
7 potentially have some concerns for me, too. I farm and am  
8 president of the drainage district. I'm looking for  
9 improvements for my levee and drainage district, too.

10 One of the problems we have along the upper  
11 Miss, not Missouri River, but we have the shallow water  
12 habitats are disappearing because of the floodplain are so  
13 far above the river. Also in our area, the cottonwoods  
14 and willows are the only dominant tree species, and our  
15 hardwoods along the floodplain are disappearing.

16 Those of us that are concerned about our  
17 area of the river are concerned about those hardwoods, and  
18 we'd like to -- since the diversity is the same, we'd like  
19 to use some dirt outside of our drainage districts to  
20 build berms to plant hardwoods to maybe try to get them to  
21 start and to -- by doing this, it seems to be they're  
22 doing the opposite here at Jameson Island.

23 We would like to see the beneficial use of  
24 the sediment along the rivers to increase habitat, to  
25 increase diversity, and also help with levees and

1 drainage, too. So I think there's a way that things can  
2 work beneficially and not always have to be an adversarial  
3 process.

4                   And so we -- the way dredging is done on  
5 the upper Miss, most of the time it is take the dredged  
6 material, move it to another part of the river. We've  
7 been trying for years and years and years to find out  
8 beneficial uses for dredge material. We cannot seem to  
9 get that done very often, and -- and we think that the  
10 Corps needs to spend more time using the beneficial uses  
11 of dredge material instead of just throwing it away.

12                   Those of us on the Mississippi looking at  
13 this project from the outside, it looks like a resource is  
14 being abused instead of used. And so our district would  
15 recommend using the beneficial uses to recommend  
16 Alternative 3.

17                   I'm also the president of Marion County  
18 Farm Bureau, and last month our board recommended that we  
19 come to this meeting and endorse -- recommend  
20 Alternative 3 for the beneficial uses of the soil along  
21 the river because the implications could have implications  
22 along the upper Miss.

23                   Also, I'm a board member of the Upper  
24 Mississippi/Illinois/Missouri River Associations, and we  
25 work with the Missouri Levee and Drainage Association and

1 we follow their recommendations in recommending  
2 Alternative 3. Thank you for your comments. Any  
3 questions?

4 CHAIRMAN HUNTER: Brent, now, let me ask  
5 you a question. On the upper Miss, don't -- in some  
6 places don't they build levees out of sand?

7 MR. HOERR: That is correct.

8 CHAIRMAN HUNTER: Sand levees?

9 MR. HOERR: Most of the main stem levees  
10 along the Mississippi are made of sand. The flank levees  
11 that run from the Mississippi to the bluffs are clay or  
12 silt. And most of the levees were built privately about  
13 the turn of the century. The 1954 Flood Act when the dams  
14 and stuff, of course, on the mitigation of water was --  
15 was looking for uniform levee districts, uniformity, and  
16 so they built -- the Corps come in and added to the clay  
17 levees along the river and added sand to basically build  
18 50-year -- that's not a very good term, but uniform levees  
19 along the upper Miss.

20 So that's what we've got, the sand levees,  
21 and the problems with sand levees and the levee system is  
22 that they're designed for there but they are not designed  
23 to have water getting close to the top of them. And since  
24 '73, '93, 2008, 2011, the damages and stuff, those of us  
25 that farm behind levee districts are concerned about these

1 levees because -- and concerned about damage because  
2 there's ways to provide flood protection and also reduce  
3 the damages, but it takes a long process. We've been  
4 working on that for a long time. That's another process  
5 that will entail a lot of work, a lot of study between  
6 states.

7                   A couple months ago I in this process  
8 working towards that, talking with state agencies, they  
9 just refer me back to the Corps. So I've got a local  
10 district working with the Corps. So you imagine how those  
11 negotiations or talks go.

12                   It is my opinion that a lot of these issues  
13 have a state concern, and I appreciate the efforts of the  
14 Clean Water Commission because you're taking an interest  
15 and you're using the process to make sure things are good  
16 for the state of Missouri, and I really appreciate that,  
17 and it's important that Missouri takes their interest as  
18 this total state. It's not just those of us that live  
19 along the river. During floods, all Missourians pay.

20                   And we want our state to be the best. So  
21 we want shallow water habitat, so we can have it all, and  
22 shallow water habitat works when rivers are running  
23 normally. The conflicts we have is when things don't --  
24 or aren't normal, and that's where considerations need to  
25 be taken. So we need to look at the broad scope of the

1 floodplain. We need to have Missouri's departments'  
2 interests involved and have a forum to do that. And so I  
3 appreciate there's -- I think there's more uses,  
4 beneficial uses for using the material along the rivers  
5 beneficially instead of letting one agency do it all and  
6 not counting the cost down the road.

7 I heard some just concern about losing  
8 10 to 15 acres of wetlands. There's things that we can  
9 do. We've got areas that the river, the sediment load is  
10 so great and dirt needs to be removed, but if the  
11 endangered species, Clean Water Act and all those things  
12 have our hands so tied, unless you're the Corps, they can  
13 do almost anything they want.

14 There's only one people -- there's only one  
15 agency doing it. We all need to be looking at it. We all  
16 need to be working on it, and we all need to have the  
17 forums to do it. And if the Clean Water Commission just  
18 lets the responsibility go back to the Corps and the  
19 studies and gets out of this argument, Missouri will lose  
20 because you need to take your responsibility seriously,  
21 and it's important to those of us in the state of  
22 Missouri.

23 CHAIRMAN HUNTER: We appreciate your  
24 remarks. Jessie Libarger.

25 MR. LIBARGER: My name is Jessie Libarger.

1 I'm a retired riverboat captain. I didn't intend to make  
2 any comments at first, but I decided to. I started on the  
3 river in 1963 in dike construction work as a deckhand, and  
4 four years later I got my pilot's license, and I continued  
5 doing dike construction work for a total of 14 years. So  
6 I know how dikes work and how they're supposed to work.

7                   After that, I went to work for a barge line  
8 and I barge lined up to the time of my retirement, which  
9 was three years ago. I'm retired, but I occasionally  
10 still makes trips when they twist my arm.

11                   I know one time I was southbound with eight  
12 barges, and I happened to have a Corps of Engineers guy on  
13 the boat to view the river, and that was after the dike  
14 notching and it was creating problems. And I think it was  
15 mile 90, I know it was mile 90 below Hermann, and I  
16 started feeling some bumping. I was going aground. And  
17 the Corps guy said, well, what's going on? I said, well,  
18 we're going aground. He said, well, we're in a channel.  
19 I said, I know that, but if you look over there and look  
20 at them notches and the water gushing down through them  
21 and that's our problem.

22                   Needless to say, it took us three days to  
23 get those barges off the ground. Eventually -- I tried to  
24 push them off. Eventually they just broke up and we had  
25 to get them off the ground one by one. Took three days.

1     Needless to say, he got off the boat there.

2                     So I know that the notches in the dikes and  
3     the side channels, they're -- they cause problems for  
4     navigation. You just can't rob water from the navigation  
5     channel and expect for navigation to continue.

6                     Another point, I don't know how many of  
7     these projects are deemed successful, but I know there's  
8     many that's been a failure. And I have some pictures here  
9     that I took of projects that -- where they were digging  
10    side channels and they was trying to create lines and  
11    water going through them, and I took pictures of them.  
12    And eventually with the rise and fall of the river and  
13    silt dropping, they filled back in, and two years later  
14    you couldn't even tell that they did any digging there.

15                    So that -- it made me -- kind of thrilled  
16    me to see them fill up, but it bothered me in the sense  
17    that was my tax dollars that was wasted and it was your  
18    tax dollars also. And I just -- if it was up to me, I'd  
19    like to see -- I'd like to see us go back to God's  
20    original plan where man has dominion over fish and  
21    wildlife.

22                    CHAIRMAN HUNTER: Jessie, would you like to  
23    share those pictures with us?

24                    MR. LYBARGER: Who said that?

25                    CHAIRMAN HUNTER: I did.

1 MR. LYBARGER: Sure.

2 CHAIRMAN HUNTER: You'll have to probably  
3 leave them here for them to make copies of.

4 MR. LYBARGER: And you can't tell there's  
5 been any digging there now.

6 CHAIRMAN HUNTER: Thank you very much.  
7 We've got your address, so we'll try to get these back to  
8 you.

9 COMMISSIONER WOODS: Do you have an  
10 alternate plan that you -- or one of these plans that you  
11 would support?

12 MR. LYBARGER: I would like to see you do  
13 away with all of them.

14 COMMISSIONER WOODS: That's an answer.

15 CHAIRMAN HUNTER: An honest man. All  
16 right. Now, if there is anyone else in this room that  
17 would like to make a comment, if there's anyone left that  
18 hasn't, I'd like to see that. Megan Perry. Is it Perry  
19 still?

20 MS. KAISER: No. I got married. I just  
21 had a question about just in respect to the question that  
22 was mentioned after the break about the levees on either  
23 side that were required by Alternative 3 to be built. Is  
24 Tom Bell still here. He left. Okay. But in the  
25 Alternative 3, the Corps -- it doesn't say anything about

1 having to build a 14-foot levee on either side. That's  
2 just not here. I just wanted to bring that to the  
3 attention.

4 CHAIRMAN HUNTER: So that's been added, is  
5 that what you're --

6 MS. KAISER: I'm not sure where that was  
7 coming from. That's why I was hoping that Mr. Bell was  
8 still here.

9 COMMISSIONER WARREN: I think that was in  
10 response to my questions because of the comments about  
11 moving the soil and seeding it, where in the refuge would  
12 that be possible without disrupting the habitat.  
13 Certainly it wouldn't be in a wetlands area, and because  
14 of forestation, I believe it's -- I'm not going to speak  
15 for him, but my understanding of his answer was that  
16 levees were the only way of disposing of that or placing  
17 the sediment on the river on soil.

18 THE REPORTER: Excuse me. I didn't get her  
19 name.

20 MS. KAISER: Megan Kaiser.

21 MS. PERRY: May I clarify that? The point  
22 is it's not in the PIR. What they announced today about  
23 the 15-foot levees was not proposed in their written  
24 document. On page 34, it gives -- and it simply says that  
25 the soil will be moved out of the area, which is what

1 we're all proposing to happen, and this 15-foot pile is  
2 not described in their proposal.

3 CHAIRMAN HUNTER: Thank you for that  
4 clarification. Brian Klippenstein representing Senator  
5 Roy Blunt.

6 MR. KLIPPENSTEIN: Senator Roy Blunt, yes.  
7 Good afternoon, everyone, Commissioners and Dr. Hunter,  
8 Colonel Hofmann. Thank you for your forbearance for us  
9 all today and taking testimony. Senator Blunt will  
10 provide formal comments which will in a more meaningful  
11 way endorse Option 3.

12 But an observation watching the course of  
13 this event first, I believe it's almost imperative to say  
14 how impressive for people like Dr. Hunter and others in  
15 this room have been to scores if not hundreds of these  
16 meetings how many people show up who are experts and  
17 advocates and who care and who are stakeholders and care  
18 deeply about what's going on, want to work with the  
19 government, and it's a remarkable part of our democracy  
20 that people still show up in these volumes believing that  
21 their voice will indeed be heard.

22 I just have two further observations, one  
23 suggestion. One is suggesting that the Corps not  
24 underestimate itself. This is one project. It's one  
25 project in the context of many projects, projects that

1 have already been ongoing. Holt County already had a  
2 number of them. There are a number of them set up that we  
3 have in front of us. But I think what's critical in all  
4 this to know is that the success for this whole project is  
5 going to require more consensus than I think we see in  
6 many cases here today. I hope that the Corps realizes  
7 that while they have a tradition of being tremendous  
8 partners for leaders in the basin, whether they're civic  
9 leaders or levee district people or people who represent  
10 resource interests.

11                   There are models out there, and  
12 Dr. Hunter's a piece of it, in the Mississippi River, and  
13 Senator Blunt and Senator Hoven just traveled from  
14 Fort Beck, Montana down to Missouri, and the point of it  
15 was to try to identify a greater level of understanding  
16 and consequently consensus and consequently success, and  
17 success such as we see in many parts of the Mississippi  
18 River.

19                   In this case, I hope that we would observe  
20 in this particular meeting that outside of our -- one of  
21 the later people who testified, best as I could hear,  
22 everyone supports the chute. If an outsider may arrive  
23 here, they may ask the Army Corps of Engineers to take yes  
24 for an answer.

25                   I think the Corps has a great opportunity

1 here to build something that would work very much in their  
2 favor in the years ahead and very much in favor of the  
3 basin and this project, and that is to try work in such a  
4 way to make No. 3 work. This is more directed to the  
5 Corps, although the Commission has leverage in this  
6 particular decision.

7                   We're big believers in the Corps. The  
8 Corps' done amazing things. They've done a lot of things  
9 that people say they can't do, but we believe in them. We  
10 believe the No. 3 could work. It's nonprescriptive, but  
11 there's sufficient experts and energy in the Corps and I  
12 think with the -- with the service as well where this  
13 could end up being a win/win, A; and B perhaps far more  
14 important, sets a temperature, a trajectory where these  
15 projects are more successful in the future where everyone  
16 is working a little more closely together and the  
17 Commission's not having four-hour public meetings.

18                   Thank you very much.

19                   CHAIRMAN HUNTER: Thank you, Brian.  
20 Appreciate that.

21                   If there are no other comments, at this  
22 time the Department of Natural Resources will make a  
23 comment on the project, presented by Mr. John Madras.

24                   MR. MADRAS: Thank you, Mr. Chairman.  
25 Mr. Chairman, Colonel Hofmann, members of the Commission,

1 I'd like to briefly explain the Department of Natural  
2 Resources' roles and responsibilities for reviewing this  
3 project. The department is responsible for making a  
4 decision under Section 401 of the Federal Clean Water Act.  
5 This section of law requires a certification that the  
6 proposed project is consistent with the state's water  
7 quality standards.

8                   Typically, water quality certifications  
9 contain conditions to the extent necessary to achieve  
10 consistency with the water quality standards, and projects  
11 may be modified through the process to achieve this  
12 requirement.

13                   Under Section 404 of the Clean Water Act,  
14 the Corps of Engineers make the decision of whether the  
15 project is in the public interest. This is a broader  
16 standard since it requires the proposed project meet  
17 overall societal goals, including satisfying the purpose  
18 and need of the project, protection of onsite threatened  
19 and endangered species, identification and, if needed,  
20 preservation of historical landmarks, as well as being  
21 cost effective and consistent with other responsibilities  
22 of the agency.

23                   The Section 404 Department of the Army  
24 permit is only valid when a Section 401 water quality  
25 certification has been approved, approved with conditions

1 or waived.

2                   The public notice announcing the proposed  
3 project and this public hearing are two actions the  
4 department and Corps of Engineers have taken to ensure the  
5 project receives adequate public notice. Comment period  
6 closes June 30th, 2012. The department will consider  
7 comments with respect to water quality and the Corps will  
8 respect to overall public interest.

9                   In earlier discussions, I hesitated to make  
10 a yes or no answer to the question of whether this project  
11 as proposed meets water quality standards. A complex  
12 project like this cannot be viewed as a collection of  
13 individual aspects in isolation, but rather must be  
14 considered as a whole.

15                   The net result must meet the standards we  
16 have set for ourselves, even though there may be  
17 shortcomings and the individual parts may not find favor  
18 as freestanding projects on their own.

19                   For this proposed projects, there are nine  
20 concepts the department feels are important to consider.  
21 These concepts can provide insight in how the project can  
22 be viewed in the overall context of the Missouri River  
23 environment and the overall changes in water quality that  
24 may accompany the project.

25                   The concepts are the following: One,

1 direct discharge of sediment and soil into the Missouri  
2 River is not a natural process. Because the introduction  
3 of soil into the water is not related to high flow events,  
4 this could produce a local overload of sediment, introduce  
5 nutrients unnaturally and create potential water quality  
6 issues.

7                   Two, the top of the soil profile is richest  
8 in nutrients. Therefore, we should identify ways to keep  
9 it out of the river.

10                   Three, woody debris contributes to a  
11 critical habitat need of many native Missouri River  
12 species and does not affect water quality. Therefore, the  
13 department has no objections to the Corps' approach for  
14 woody debris dispersal.

15                   Four, Missouri River in Missouri carries  
16 roughly four times as much sediment historically compared  
17 to present day. Much of the sediment in the Rocky  
18 Mountains and High Plains is now stored in the reservoirs  
19 upstream and is not reaching Missouri.

20                   Five, erosion is a natural process in the  
21 floodplain with the Missouri River historically meandering  
22 across the floodplain creating braided channels and  
23 eroding its banks. The bank stabilization project fixed  
24 the channel in place, reduced erosion and stabilized  
25 bottomland farming areas. Measures that completely

1 prohibit erosion could have negative consequences and  
2 conflict with other applications of the Clean Water Act in  
3 Missouri.

4                   Six, because of frequent flooding and  
5 significant groundwater flow, nitrogen, which is  
6 chemically reacted, is not overly abundant in the  
7 sediment, in the water stored in the sediment in the  
8 project site. Phosphorus, which clings to particles, is  
9 present but in forms that are not biologically available  
10 in fresh water for the same reason.

11                   Seven, the department has a long history of  
12 disputing calculations of nutrient sources to the Gulf of  
13 Mexico while supporting the general concepts of the Gulf  
14 Hypoxia Tax Force. The department and Commission seek  
15 assurance from the Corps and EPA that these projects won't  
16 be counted against Missouri in calculations of nutrient  
17 loading to the Gulf, and that the projects will be stopped  
18 or altered if any significant change is documented in the  
19 nutrient delivery as a result of this or other habitat  
20 restoration projects.

21                   Eight, the department is well aware of  
22 concerns of the local levee and drainage districts and  
23 asks the Corps be more attentive to those concerns in the  
24 future. Creating habitat on appropriate properties is not  
25 a license to adversely affect your neighbors.

1                   Nine, the Corps must commit to maintenance  
2 of the control structures related to these projects in  
3 order to maintain the navigation channel and protect  
4 adjoining lands from erosion.

5                   As the proposed project proceeds through  
6 review and seeks authorization, the department asks the  
7 Commission's consideration of these concepts as part of  
8 the review of the project. Use of these concepts can  
9 be -- can add some deeper considerations to the factors  
10 involved and decisions the Commission, department and  
11 Corps must ultimately reach.

12                   Our review of the project suggests the  
13 ingredients for a successful effort are present. However,  
14 it may be more productive to consider different  
15 construction methods, changes in staging activity, and  
16 appropriate follow-up to ensure the project meets the  
17 objectives.

18                   We envision a project that is somewhat  
19 different from all the alternatives before us today. We  
20 have not previously shared these concepts with the Corps  
21 and would ask their consideration as part of the review  
22 proceeds. Department staff would like to consider these  
23 and similar changes to the project as it continues through  
24 review and hopefully reaches a stage where the Commission,  
25 department and Corps achieve a comfort level that the

1 proposed and any future projects meet all the decision  
2 criteria involved.

3                   At this point we ask the Commission's  
4 concurrence for the department staff to consider these and  
5 perhaps other additional or different techniques as part  
6 of the review of the project as we work toward a viable,  
7 productive project. Thank you.

8                   CHAIRMAN HUNTER: Thank you, John. At this  
9 time we'd like to ask Colonel Hofmann to respond to the  
10 questions which were submitted.

11                   COLONEL HOFMANN: Dr. Hunter and the  
12 Commission, thanks for allocating the Corps some time here  
13 to answer any written questions and maybe some other items  
14 that were covered today for transparency. The public  
15 hearing's great, but it doesn't provide kind of give and  
16 take. That's why we'd asked for that time. We appreciate  
17 that.

18                   So at this point I'd like my staff to  
19 address some of those items, if that's okay with you.  
20 Before they start, I do want to address one item that I  
21 think it was Mr. Riegel and Mr. Lynaman talked about, the  
22 levees and the repairs to the levees. Although not  
23 directly related to Jameson, it was a topic brought up, so  
24 I at least want to cover that for the public here.

25                   With respect to the levees, if they have --

1 if the sponsors have a levee in the Public Law 8499  
2 program, those are the only levees that we track as the  
3 Corps of Engineers. Some can be federal levees, which  
4 were built by the Federal Government and then maintained  
5 by the local levee sponsor, which under repair actions, if  
6 in good standing, is 100 percent federally funded for  
7 repairs, or the non-federal levees, as I believe  
8 Mr. Riegel or Mr. Lynaman alluded to, it's a 20 percent  
9 cost share to the local levee sponsor and 80 percent to  
10 the Federal Government.

11 But the bottom line is, with respect to  
12 repairs to the system for levees, following the 2011  
13 flood, we do have the resources available and that was  
14 provided by Congress which was passed by the Disaster  
15 Relief and Assistance Act on the 23rd of December to the  
16 tune of about \$42 million in repairs for the Kansas City  
17 district levees in the Public Law 8499 program.

18 And Mr. Klippenstein and others have  
19 alluded to before that Congress has provided that funding,  
20 so resources from the perspective of levee repairs is not  
21 an issue, and we expect to get about \$31.3 million for  
22 repairs to the bank stabilization and navigation project  
23 with the DRAA funding as well.

24 I just wanted to put that out to the public  
25 because there seemed to be some question if we have the

1 funding for repairs for levees that are in the Public  
2 Law 8499 program or to the bank stabilization and  
3 navigation project to get them back to pre-2011 condition.

4 With that, I'll call up I think Steve  
5 Fischer, I think Zach White, and I'm not sure if -- I  
6 think those two will address some of the written questions  
7 and then some of the other topics that were covered.

8 MR. FISCHER: Thank you, sir. Now it's  
9 good afternoon, everybody. We'll try and respond to one  
10 question and then several comments that were made today.  
11 So if there's any follow-up questions that you'd like to  
12 ask of us as well, please do.

13 The first question that was asked is,  
14 what's the Corps of Engineers' plan for ensuring that the  
15 Jameson Island chute project will not impact navigation?

16 The Corps must develop our mitigation  
17 projects in a manner that we do not adversely impact other  
18 authorized purposes, including navigation. Designs for a  
19 shallow water habitat are developed to maintain sufficient  
20 flow in the navigation channel and not result in  
21 deposition that would result in shoaling within the nav  
22 channel or create other hazards to navigation or  
23 recreation.

24 The Corps routinely monitors the Missouri  
25 River navigation channel and coordinates these efforts

1 with U.S. Coast Guard and commercial navigators on the  
2 river.

3                   In areas where navigation impediments are  
4 identified, the Corps works with the Coast Guard and  
5 commercial navigators to develop and implement corrective  
6 actions and then restore and maintain the authorized  
7 9 foot deep 300 foot wide navigation channel.

8                   We also heard several questions today  
9 regarding monitoring program and whether the Corps should  
10 monitor ongoing efforts, and I'll respond to that. Since  
11 the 2007 ordeal with Jameson, the Corps has implemented  
12 multiple programs as a result of -- or efforts as a result  
13 of that. These were described in our project  
14 implementation report.

15                   The Corps has initiated both a programmatic  
16 as well as a site-specific monitoring program. Kind of  
17 getting into some detail here. So data's been collected  
18 not only with Jameson itself, we do a preconstruction  
19 assessment of material onsite. You've heard people  
20 mention that as well.

21                   We have a monthly monitoring program  
22 looking within the main stem river itself, looking at  
23 tributaries, as well as site-specific monitoring. And we  
24 also monitor post construction of our projects. So the  
25 Corps has already implemented a monitoring program to look

1 at the impacts as well as perceived issues within the  
2 river itself.

3                   A comments was also made today in regards  
4 to the science and are we seeing anything as a result of  
5 our shallow water habitat construction projects. The  
6 Corps constructs these projects to meet the habitat goals  
7 outlined in the 2003 amended biological opinion to  
8 mitigate fish and wildlife habitat losses for the bank  
9 bank stabilization and navigation.

10                   Keep in mind that the pallid sturgeon is a  
11 long-lived species, and compared to the habitat that was  
12 lost, only a small portion of that habitat has been  
13 restored to date. Additionally, there have been  
14 insufficient numbers of reproductively mature sturgeon in  
15 the Missouri River to sustain a population.

16                   In conjunction with shallow water habitat,  
17 the Corps works with state and federal agencies to  
18 propagate pallid sturgeon to ensure that there are  
19 reproductively mature pallid sturgeon in the system as  
20 these habitats become available. Because of this, the  
21 shallow water habitat could not be expected to produce  
22 immediate observable effects on the pallid sturgeon.

23                   Initially this habitat will increase  
24 sheltering, feeding, areas for young fish, including many  
25 species that are food for the pallid sturgeon. In the

1 long term, these habitat improvements will benefit the  
2 pallid and other native fish species.

3                   To monitor the biological progress of our  
4 shallow water habitat projects, we have an extensive  
5 habitat assessment and monitoring program to evaluate the  
6 performance of these habitats. We've developed -- of  
7 these habitats and we have developed an extensive shallow  
8 water habitat adaptive management plan. That was also  
9 included in our project implementation report.

10                   As a matter of fact, just last week these  
11 monitoring efforts collected five larval sturgeon from the  
12 Jameson Island chute itself. These pallid sturgeon were  
13 approximately one inch in length and were collected in  
14 depths ranging from two to six feet in the water in an  
15 area that is clearly defined as shallow water habitat.  
16 Whether these sturgeon are, in fact, pallid or shovel  
17 nose, they're still an indicator that the created habitat  
18 chute is beneficial for native species. I'm sorry. The  
19 larval sturgeon.

20                   A comment was made also about the  
21 phosphorus load contribution of 6 to 12 percent referenced  
22 in the NRC report. Note that values used in the NRC  
23 report are upper bound estimates based on a creation of a  
24 thousand acres per year of shallow water habitat with  
25 100 percent of that material being delivered to the Gulf

1 each year.

2 I want to make -- I want to make one thing  
3 clear. The phosphorus load contribution of the Jameson  
4 Island dredging would be less than 1 percent of the  
5 Missouri River phosphorus load at Hermann, Missouri.

6 There were also comments just made in  
7 regards to the beneficial use of material in regards to  
8 the upper Mississippi project. The Corps does have a  
9 habitat or an ecosystem restoration project taking place  
10 on the upper Mississippi using specifically that  
11 beneficial use of dredged material to create habitat out  
12 there. So that program's already in place.

13 I also want to make mention of the fact,  
14 along those same lines, these exact mitigation sites that  
15 we're talking about here with the recovery program,  
16 material has been used from those sites to repair levees  
17 up at Holt, Atchison, Freemont County. So material taken  
18 from these mitigation sites has been used as beneficial  
19 use material.

20 Another comment regarding dike notching in  
21 Jameson. There is no dike notching associated with the  
22 Jameson project, but we have heard that comment previously  
23 in terms of a public meeting. What we've offered to do is  
24 take that information and, in fact, we're expecting to get  
25 a list from stakeholders, so if there are concerns related

1 to dike notching, we've offered to go out and take a look  
2 at those. Zach.

3 MR. WHITE: My name is Zach White. I'm the  
4 project manager for Jameson Island, and on a lighter note,  
5 my family farms ground in Holt County, Missouri. So I  
6 have these public meetings at every major holiday.

7 My point is that the Missouri River bottom  
8 land that my family owns will one day be mine. So it's  
9 very important to me, not only for this project, but for  
10 the future of the Missouri River. How we handle these  
11 actions are very important to me personally.

12 The comments -- the only comment we  
13 received today, written comment, was from Joe Gibbs to  
14 increase the height of the chute diversion to 19 feet on  
15 the Boonville gauge. A little background information on  
16 that is that the current proposed project is that the  
17 diversion structure to be placed at 13.1 feet. This  
18 comment would propose to raise it by six feet. We'll look  
19 at this comment and we'll evaluate it like all the others.

20 One thing I do want to define is that the  
21 design elevation of 13.1 feet is not -- it's not an  
22 arbitrary number. The Corps has relied on its history of  
23 closing side channel chutes in developing this design.  
24 The 13.1 on the Boonville gauge is the exact height that  
25 we've used to close hundreds of historical side channel

1 chutes. This design includes 25,000 tons of rock to be  
2 placed in the chute channel. This design is robust.  
3 However, we're open to alternatives in the design.

4                   One comment that just recently came up,  
5 which sent me running into the next room, is that the  
6 spoil piles are not in the PIR. Figure 3 in the PIR shows  
7 the alternatives and the cross sections that are designed  
8 for the alternatives. It's also in the public notice on  
9 the very last page of the public notice showing the cross  
10 sections.

11                   One thing I do want to point out is that  
12 when I asked an engineer to create me cross sections and I  
13 said it didn't really matter what scale we create these  
14 to, they took that literally, and they made the cross  
15 sections very large for some and very small for the other,  
16 and the reason was to fit it all on the page.

17                   So I brought a little exhibit here, which  
18 we had some high wind yesterday in Kansas City. We chased  
19 this about 200 yards down the road. You'll see the  
20 impacts of that.

21                   We made these to scale, and just briefly,  
22 this -- the top one here is a typical cross section of the  
23 Jameson Island Refuge. On the right we have typical  
24 wetland areas. On the left we have typical scour pools  
25 and riparian timber and forrest there.

1                   Alternative 3 is this middle, this middle  
2 cross section here. It requires the clearing of 700 feet  
3 of the riparian forest, and then the spoil areas would be  
4 placed alongside of either -- alongside the channel.  
5 They're 15 feet high in our proposal and 210 feet at the  
6 bottom.

7                   Now, where was the 15-foot number hit? We  
8 chose that 15-foot number to kind of balance the bottom  
9 width and the height. 15 feet was about as high as we  
10 want to go with the spoil piles, and if we went any lower  
11 it would make impacts to the cross section even greater.  
12 So these spoil -- if we were to go lower, these spoil  
13 piles would be bigger.

14                   Alternative No. 4 is the bottom, and you  
15 can see this is the least environmentally damaging  
16 practical alternative. Much of the impacts would be  
17 lessened to wetlands, to the scour hole and to the natural  
18 environment that exists on Jameson Island.

19                   COMMISSIONER WOOD: While you've got that  
20 up, could I ask a question?

21                   MR. WHITE: Sure.

22                   COMMISSIONER WOOD: Would those -- in 3,  
23 would those banks that you're creating be subject to  
24 flooding?

25                   MR. WHITE: The entire Missouri River

1 floodplain is subject to flooding.

2 COMMISSIONER WOOD: What I'm saying is,  
3 would a flood eventually take that material down river  
4 anyway?

5 MR. WHITE: Our intent in Alternative 3 is  
6 to show that the spoil piles are placed far enough away  
7 from the channel, and also they will be stabilized by  
8 planting grass seed.

9 COMMISSIONER WOOD: So they will not?

10 MR. WHITE: That is correct.

11 COMMISSIONER WOODS: Thank you.

12 MR. WHITE: Also, I heard some other  
13 comments about alternatives that we have not considered.  
14 The evaluation of these impacts are described in detail in  
15 the PIR, which I encourage everybody to read. Some that  
16 we heard today are that we didn't look at excavating and  
17 hauling the material offset, and we also haven't looked at  
18 beneficial uses. Those are included in the PIR.

19 One that I would like to bring up, the  
20 excavating and hauling offsite, we looked at that, at  
21 multiple different alternatives for that. One would be  
22 trucking, taking the excavated material, putting it in a  
23 truck and hauling it offsite. The only available haul  
24 route to allow us to do this would go through the historic  
25 site of Arrow Rock, Missouri.

1                   So we looked at other alternatives. How  
2 else will we get this off the floodplain? We looked at  
3 putting it in barges and trucking it downstream. We  
4 assumed some distances and we assumed some offloading  
5 costs, and that would be very, very cost prohibitive. And  
6 that is all detailed in the PIR.

7                   Another thing that we heard a lot about is  
8 that the soil conservation tax, \$40 million and things  
9 like that. I'd like to make a quick statement on that and  
10 then read something from the hearing to review the U.S.  
11 Agricultural policy advancement of 2012 farm bill.  
12 Comparing upland soil conservation practices -- this is  
13 what I wrote, not the farm bill. Comparing upland soil  
14 conservation practices with Corps habitat restoration  
15 efforts which remobilize alluvial sediment trapped by the  
16 bank stabilization and navigation project is like  
17 comparing apples and oranges.

18                   Soil does not have value for farming -- or  
19 that's obviously not where I meant to stop there. Soil  
20 does have value for farming, just as alluvial sediment  
21 that has been trapped by the bank stabilization and  
22 navigation project has value as an important component of  
23 the aquatic ecosystem of the Missouri River and as a  
24 critical building block of coastal wetlands in the Gulf of  
25 Mexico.

1                   These two very different things. And from  
2 this hearing to review the 2012 farm bill, a congressman  
3 from the state of Missouri, a representative congressman  
4 of the state of Missouri asked a question that  
5 summarizes -- the USDA response summarizes the same that  
6 we feel.

7                   The question is this: Along the Missouri  
8 River which traverses my congressional district, the U.S.  
9 Corps of Engineers is digging a series of side channel  
10 chutes to provide shallow water habitat for the pallid  
11 sturgeon. Some calculations indicate that they will dump  
12 548 million tons of soil into the river in order to meet  
13 the Fish and Wildlife Service's requirement for increased  
14 habitat. They are doing this under a Clean Water Act  
15 permit that they granted themselves while many of our  
16 constituents have been fined for dumping what is,  
17 comparatively speaking, a miniscule amount of sediment  
18 into the river. Simultaneously your conservation program  
19 seek to educate river communities on the danger of  
20 sediment dumping and nutrient loading in our rivers.  
21 Please share USDA's position on nutrient loading and  
22 sediment dumping into rivers.

23                   The USDA replied by saying, prior to human  
24 intervention, the Missouri River was an uncontrolled  
25 active river meandering from bluff to bluff and constantly

1 cutting new channels, resulting in tremendous quantities  
2 of river-borne sediment from the channel and bank erosion.  
3 However, alteration of the main stem of the Missouri River  
4 has caused a chain effect of impacts, including the  
5 federal listing of three species into the endangered  
6 species list. Those are the pallid sturgeon, the piping  
7 plover and least tern.

8                   The proportion of discharge sediment to  
9 sediment already in the system is an important  
10 consideration. The ten-year daily average suspended  
11 sediment at Nebraska City in June is approximately 200,000  
12 cubic yards per day. So the discharge sediment was  
13 equivalent to only 1.5 days of sediment discharge.

14                   Therefore, sediment discharged into the  
15 Missouri River from the chute restoration project is a  
16 small fraction of the total yearly sediment carried by the  
17 Missouri River. Moreover, sediment discharges for  
18 restoration activities are a one-time event.

19                   The primary purpose of the USDA's  
20 investment for upland on-farm soil and water conservation  
21 practices is to ensure sustained productivity of  
22 agricultural land as well as to minimize the impacts of  
23 non-point-source pollution in our upstream reservoirs,  
24 streams and groundwater supply.

25                   On-farm conservation practices ensure

1 sustainability of these lands while allowing for  
2 agricultural production. Sediment reduction from upland  
3 on-farm soil and water conservation practices is generally  
4 a separate issue from the concern regarding sediment  
5 loading in the Missouri River. Historically, very little  
6 sediment from the upland of the Missouri River -- of the  
7 Missouri basin reached the main stem of the river because  
8 the land was protected by a blanket of native prairie  
9 grasses.

10                   Today's on-farm soil and water conservation  
11 practices on working lands approximate the effectiveness  
12 of the former prairie by establishing agricultural  
13 sustainability within farming and ranching operations.

14                   The majority of river-borne sediment is  
15 historically derived from bank erosion of the river and  
16 its main tributaries. Dams and channelization have  
17 greatly reduced sediment levels in the river. The  
18 majority of the remaining sediment flow in the river still  
19 comes from bank and bottom erosion.

20                   In the interest of time, I'll skip this.  
21 The Colonel hit this pretty hard in his opening comments.  
22 This is the double standard question about whether it's  
23 illegal to dump sediment in the river.

24                   We also heard a question regarding shallow  
25 water habitat creation levees and the potential impacts of

1 those levees. Detailed investigations of specific  
2 locations are ongoing to better understand potential  
3 impacts or benefits of how these projects interact. For  
4 example, we are conducting multi-dimensional model to  
5 understand how velocities have changed pre and post  
6 project near river mile 480. The project is Wolf Creek,  
7 and the levee is L497.

8                   Based on our preliminary model results, we  
9 are not seeing increased erosion potential due to habitat  
10 created -- due to habitat created to date at this  
11 location. However, we will be continuing to investigate  
12 these types of concerns.

13                   This is a sidebar as well, but something I  
14 want to point out is that, in addition to the Jameson  
15 Island project manager, I'm also the project manager for  
16 L497, and we're working together to address their concerns  
17 for the levee rehab, rehabilitation development. We're  
18 working together to address their concerns, and also, my  
19 grandmother goes to church with the levee president at  
20 L497. So I have to answer for that as well.

21                   Anti-degradation. Something we've heard is  
22 that Dredging Alternative 4 violates the anti-degradation  
23 regulations of Missouri. The Jameson Island project  
24 implementation report was prepared jointly with the  
25 Environmental Protection Agency and was reviewed by the

1 Missouri Department of Natural Resources. Neither federal  
2 nor state agency has alleged that we are in violation of  
3 the anti-degradation regulation. We have reviewed the  
4 anti-degradation regulations in Missouri and do not  
5 believe that we are in violation.

6                   The State of Missouri has created the  
7 anti-degradation regulations to protect public health, in  
8 stream existing uses and the level of water quality  
9 necessary to protect or maintain existing uses, also to  
10 provide protection against any waters of the state where  
11 the water quality exceeds the applicable water quality  
12 criteria, and to protect any waters designated as an  
13 outstanding national resource water or an outstanding  
14 state resource water.

15                   It is the Corps' general understanding that  
16 federal regulations support that a reasonable  
17 interpretation of Missouri's anti-degradation policy that  
18 native fish populations are an integral component of the  
19 of Missouri River's existing uses.

20                   The Corps is operating in good faith to be  
21 consistent with the Clean Water Act and Missouri's water  
22 quality standards in efforts to comply with the Endangered  
23 Species Act in the operations of the Missouri River  
24 system. A significant part of that compliance is the  
25 creation of shallow water habitat.

1                   It is inconceivable that the goals of the  
2 Endangered Species Act could be fundamentally inconsistent  
3 with those of the only objective of the Clean Water Act,  
4 which is to restore and maintain the chemical, physical  
5 and biological integrity of the nation's waters.  
6 Fundamentally our shallow water habitat program is  
7 designed to do just that.

8                   Two smaller issues, or actually one. Did  
9 we promise the control structure at Jameson Island? The  
10 control structure, we heard that it wasn't put in place,  
11 that it's not in place, and I want to address that now.  
12 At this time -- at the time construction was halted in  
13 2007, only approximately half of the planned excavation  
14 had been completed of the Jameson Island chute, and the  
15 bottom of the chute was significantly higher than the  
16 proposed structure. Therefore, that structure was not  
17 needed to limit flows in the chute at that time.

18                   However, a flow control structure was  
19 substantially completed in September 2011 and is  
20 performing as designed, and it is currently scheduled to  
21 be completed this summer.

22                   That is all I have, unless there's any  
23 questions.

24                   COMMISSIONER WARREN: I just wanted to  
25 clarify your illustration, how you answered Dennis. The

1 established riparian that would be removed, what does  
2 that -- we're talking about in No. 3, removing established  
3 riparian.

4 MR. WHITE: Yes.

5 COMMISSIONER WARREN: So if that's done,  
6 how long would it take for those grasses to be established  
7 so that if you had a flood the year that you did this,  
8 that would be downriver, wouldn't it?

9 MR. WHITE: It would be. We would put --  
10 in Alternative 3, we'd have to put -- as part of the 402,  
11 we'd have to put protective measures in place to make sure  
12 that any rain events, local rain events would be the  
13 only -- we couldn't prevent a flood from knocking out the  
14 silt fence or anything like that, but we'd want to make  
15 sure that we could to the best effect we could possible to  
16 keep that soil inside.

17 That's the purpose of Alternative 3 is make  
18 sure -- or the intent of creating Alternative 3 was to  
19 make sure that the soil stayed onsite. It's kind of our  
20 picture of what the Clean Water Commission order would  
21 have a site look like.

22 COMMISSIONER WARREN: And how long  
23 approximately would it take for those grasses to establish  
24 themselves?

25 MR. WHITE: Grasses would probably grow

1 very quickly. There's typically two planting seasons, in  
2 the spring and in the fall. Typically grasses don't take  
3 to growing very well in summer, but -- so depending on  
4 when the grasses were planted, I would assume that they  
5 would grow very quickly, especially in fertile soil.

6 COMMISSIONER WARREN: I thought for soil  
7 retention using native plants with root systems six, eight  
8 feet deep, it would take longer than that --

9 MR. WHITE: That is correct.

10 COMMISSIONER WARREN: -- for it actually be  
11 effective?

12 MR. WHITE: That is correct. And I'm not  
13 sure, and I have to check with somebody, what type of  
14 grasses we would intend to stabilize that with. I know  
15 the Fish and Wildlife's preference would most likely be  
16 native grasses.

17 COMMISSIONER WARREN: I would think if it's  
18 a wildlife refuge that would be appropriate, but that's a  
19 guess. Thank you.

20 CHAIRMAN HUNTER: Any other questions?

21 COMMISSIONER COWHERD: Yeah. On the  
22 removal issue, I don't think I fully understood. You said  
23 we can't truck it out of there because it would go through  
24 Arrow Rock?

25 MR. WHITE: That's correct.

1                   COMMISSIONER COWHERD: What's the problem  
2 with that?

3                   MR. WHITE: Well, Arrow Rock is designated  
4 as a -- in PIR there's several reasons on how we  
5 considered it the least environmentally damaging. It's a  
6 state historic side. The roads there are not in great  
7 condition, and trucking 400,000 cubic yards of material,  
8 that's a lot of trips and a lot of trucks and a lot of  
9 damage to Arrow Rock.

10                  COMMISSIONER COWHERD: And the cost of  
11 that?

12                  MR. WHITE: The cost of that is detailed in  
13 the PIR. It's several, several million dollars. I'd say  
14 five times our proposed project cost would be my guess  
15 without looking at it.

16                  CHAIRMAN HUNTER: Any other questions? No?

17                  MR. WHITE: Thank you.

18                  CHAIRMAN HUNTER: Thank you. The  
19 Commission and the Corps will receive written testimony on  
20 the Jameson Island project until 5 p.m. on June 30th,  
21 2012. You may submit this written testimony to  
22 Ms. Malinda Steenbergen, Missouri Department of Natural  
23 Resources, Water Protection Program, P.O. Box 176,  
24 Jefferson City, Missouri 65102, and to Mr. David Hoover,  
25 U.S. Army Corps of Engineers, Kansas City District,

1 Attention Environmental Resources Section, Planning  
2 Branch, 601 East 12th Street, Kansas City, Missouri 64106.

3                   Immediately after this hearing, the Corps  
4 has invited the members of the Commission to tour the  
5 construction site at Jameson Island. On behalf of the  
6 Commission and the Corps, I thank everyone who has  
7 participated in this process. This hearing is now closed.

8                   (WHEREUPON, the hearing adjourned at  
9 1:33 p.m.)

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## C E R T I F I C A T E

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STATE OF MISSOURI            )  
  ) ss.  
COUNTY OF COLE             )

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I, Kellene K. Feddersen, Certified

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Shorthand Reporter with the firm of Midwest Litigation

7

Services, do hereby certify that I was personally present

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at the proceedings had in the above-entitled cause at the

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time and place set forth in the caption sheet thereof;

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that I then and there took down in Stenotype the

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proceedings had; and that the foregoing is a full, true

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and correct transcript of such Stenotype notes so made at

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such time and place.

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Given at my office in the City of

15

Jefferson, County of Cole, State of Missouri.

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Kellene K. Feddersen, RPR, CSR, CCR

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