



**Flood Recovery Advisory Working Group**

**November 22, 2019**

**9:00 a.m. to 12:00 p.m.**

**East Elm Street Building - Bennett Spring Conference Room; Jefferson City, Missouri**

- Chris Chinn, director of the Missouri Department of Agriculture (MDA) welcomed the working group and audience members.

**Atchison County Levee Setback proposal (L-550 & L-536)**

- **Emergency Watershed Protection Program (EWP) for Floodplain** Tracey Wiggins U.S. Department of agriculture (USDA) Natural Resources Conservation Service (NRCS) Missouri Office
  - Voluntary Perpetual Easement
    - Purchased by federal government through USDA
    - One-time easement payment
  - Landowners retain fee title and rights to
    - Control of public access
    - Undeveloped recreational use of land
  - Eligible Land:
    - Floodplain lands damaged by flooding once in previous calendar year or
    - Floodplain lands damaged by flooding twice in previous 10 years
  - Restoration on floodplain easements will:
    - Include all necessary conservation practices required to restore the floodplain functions of the site
    - NRCS may pay up to 100% of the restoration cost
  - Sign-up Deadline
    - Applications accepted through 11/27/19
    - Applications accepted at local USDA Service Centers
  - Eligible land must be located in one of the 83 federally-declared disaster counties.
    - Currently \$9 million in funding available
    - Funding for all signups would require \$70 million
    - Currently approx. 68 signed up
  - Charts presented to reflect compensation rates (values used prior to disaster event)
    - Atchison County rates
      - \$4,295 /acre for crop land or appraisal
      - \$2,640 /acre for other land types or appraisal
      - Max rate \$5,000 / acre
      - Values will be update in 2020
  - Ranking of applications:
    - Ranking criteria has been established, reviewed and approved at both the state & national level
    - Policy requires the ranking to assess:

- Alleviation of current and or future threats to life, health or property due to natural disasters
    - Environmental benefit that would be achieved
    - Cost effectiveness of enrolling the land
  - Challenges:
    - Complex
    - Averages 12 – 18 months turnaround for funding once application is received
    - Voluntary
- **Questions from working group**
  - Director Chinn asked for definition of natural state.
    - NRCS staff will review land area prior to production
    - NRCS staff will review producer goals of for land
  - Ryan Ottmann asked how this program compares to the wetland program land uses allowed. Also are 1031 exchanges allowed? (1031 exchanges allow landowners to sell land to a program like the floodplain easement program without incurring large capital gain taxes.)
    - Similar to wetland programs, NRCS would make determination
    - 1031 Exchange would be allowed
  - Chris Klenklen: Are additional allocations for funds planned?
    - Maybe
  - David Shorr: What is value of land based on pre-disaster or post disaster? What is IRS tax interpretation of easement?
    - Pre-disaster
    - Not known
  - Dru Buntin: Have there been discussions on how to coordinate federal programs to not miss funding opportunities?
    - USDA Headquarters is aware of the activity in Missouri and Iowa
  - Lucy Fletcher: Do easements count as mitigation acres?
    - No
  - Gary Marshall: Who retains property tax responsibility?
    - The landowners
  - Roger Hugenberg: Are there annual inspections?
    - Yes, monitored yearly on site and by imagery (five year cycle)
  - David Combs: How many individuals are applying?
    - Approximately 65
- **2019 Flood Rehabilitation** slideshow presented by Dave Crain with US Army Corps of Engineers (USACE), Omaha District
  - L-550 Damage Overview
    - 7 breaches
    - USACE has spent \$20 million to fix main breaches and provide protection
  - L-536 Damage overview
    - 8 breaches
  - Description of PL 84-99 Program
    - What the Program Is:
      - Provide management activities for flood
      - Disaster preparedness
      - For levee rehab:

- An emergency authority
- Repair to pre-flood conditions
- Must select lowest cost or technically feasible alternative
- Generally repair in-line with minor deviations due to levee breach and seepage issues
- Levee sponsor provides all needed new real estate
- Design & construction above & beyond the lowest cost, technically feasible alternative is referred to as a “betterment”
- What PL 84-99 isn’t:
  - “Big picture” planning authority
  - Construction to primarily and explicitly address hydraulic constriction points
  - Setback levees because “it makes sense”
- L-536 Potential Large scale levee setback. Full set back and partial set back considered
  - USACE only needs real estate for levee setback footprint and right of way
  - BUT usually buyouts are required (from willing sellers) to make levee setback palatable to community
  - Real estate can be the biggest hang up for a large scale setback under PL 84-99
- L-536 Real Estate Solution Opportunities and Limitations
  - Setting the stage
    - USACE Omaha requires real estate in place before construction contract can be advertised
    - USACE Omaha does not ask the sponsor to pursue condemnation to acquire real estate
    - Projects need willing sellers to be successful
    - Closing process or intent to purchase agreements must be initiated before contract can be advertised
- Purchase of real estate
  - Sponsor may:
    - Pay for real estate out of pocket
    - Seek grants to support real estate
  - USACE could utilize Missouri River Recovery Program (MRRP) to acquire real estate
    - Could complete entire acquisition process in as little of 6 months
    - Political opposition to MRRP activities has led to land acquisition budget reductions, currently no funds available
  - NRCS could utilize Emergency Watershed Protection-Floodplain Easement Program (EWP-FPE) last used in 2000 in this area
    - Possible that easement intent to purchase would line up with earliest work in April 2020
    - Easement appraisal amount would likely be higher than any other entity could offer
    - All landowners would need to submit applications (11/27/19) and accept NRCS offers
  - The Nature Conservancy (TNC)
    - Could support as a “stop gap” between private land sale & government agency purchase
    - Currently targeting purchasing residual fee title after NRCS easement enrollment acceptance

- Not interested in owning property in perpetuity, would need state/fed agency to purchase from TNC
  - Other possible sources
    - MO Dept. of Economic Development (DED) – Community Development Block Grants (CDBG)
    - U.S. Dept. of Commerce grants
    - State agency could purchase (MO Dept. of Conservation)
    - Timing could be problematic in obtaining grants
- Challenges Under PL 84-99
  - Requires lowest cost or technically feasible alternative
  - Must have extensive damage to rank setback as cheaper than in line repairs
  - In-line repairs undertaken are accounted for in “lowest cost”
  - Is an emergency management program – narrow scope being “lowest cost”. Only construction costs
- Interim Lessons Learned from L-536
  - Sponsors aren’t sitting on millions of dollars for setback
  - Political opposition to MRRP prevented land acquisition support option for levee sponsors & local communities
  - If funding through grants or other government programs NOW is the time to bring forward. There is still time.
  - Interagency collaboration is key but requires creativity & flexibility.
  - For those interested in doing bigger things und PL 84-99:
    - Propose legislative changes to PL 84-99 to make levee resiliency actions easier to conduct
    - ER 500-1-1 and 33 CFR 203, 203.50 contains guidance for conducting levee setbacks
    - Section 1176 of WRDA 2016 provides clarification of NSAP
- Current L-536 Status cost
 

▪ Fix breaches with in-line sheet pile	\$63,000,000
▪ Fix breaches with in-line berms	\$59,600,000
▪ Full setback	\$54,200,000
▪ Partial setback	\$53,800,000
- Real Estate pending and agency coordination ongoing:
  - NRCS WEP-FPE application deadline 11/17/19 (not all land owners have applied)
  - Sponsor working landowners to acquire setback alignment footprint
  - Sponsor pursuing grants for real estate acquisition
  - Agencies are coordinating on fee title buy-out following NRCS easement enrollment
- Contracting & Construction Time frame:
  - January 2020      Prepare contract scope of work
  - March 2020      Award Contract (in-line repairs 1<sup>st</sup>, setback as an option)
  - April 2020      Contract mobilized, begin earth moving on in-line repairs only
  - April / May 2020
    - Real estate finalized – exercise setback option
    - Real estate falls through – complete rest of inline repairs
  - Fall 2020      Work significantly complete – level of protection restored
- Examples of large scale levee setback examples and out comes
  - Hwy 2 levee setback

- Frazer Bend levee setback
- **Questions:**
  - Are there examples of setbacks used in concert with mitigation land?
    - The two examples in the presentation are the only examples.
- **Atchison County & the 2019 Flood** slideshow presented by Ryan Ottmann president of the Atchison County Levee District.
  - Atchison County Levee District consist of the following federal levees
    - L 561
    - L 550
    - L 536
    - Turkey Creek Levee
  - Atchison County Levee District Purview
    - Responsible for 56 miles of federal levees in NW Missouri – one of the largest levee districts in the country
    - Protect agricultural land, commercial businesses, private homes and public infrastructure
    - Designed in the 1940s, built in 1950s on ground donated by sponsors
    - Built with 3 to 1 slope
    - No significant changes in levee or alignment for the past 67 years
  - 2019 Flood
    - L 550 overtop began around 3/15/19
    - 1<sup>st</sup> breach of 550 occurred within 3-4 days
    - L 550 had 2 full breaches along with crest damage
    - L 536 experienced about 7 full breaches with significant crest damage
  - 2019 Flood Impact on Atchison county
    - 56,000 acres under water
    - 14 commercial businesses underwater of which 1 has chosen not to reopen
    - 166 homes flooded
    - 278 citizens forced to evacuate
    - 1,295 agricultural buildings flooded
    - Estimated \$25 million in lost ag revenue
    - Road issues
      - 121 miles of road destroyed
      - I-29 was closed for approximately 187 miles between St. Joseph, MO & Omaha, NE. Largest closure of an interstate highway
      - US Hwy 136 west out of Rock Port into Nebraska closed for 216 days
        - Caused additional travel for many nuclear plant employees living in MO traveling out of state to plant (approx. 2 additional hours/day)
        - Some families relocated to Nebraska permanently
    - BNSF Railroad main line closed for several months
  - Current Status
    - \$22.2 million spent on initial closures on the 2 inlet holes on L 550 and crest damage which allowed water in the north part of the county to drain. This allowed for work to be done to open roads and businesses
    - L 536 in a holding pattern due to high running river and no final plans approved to fix
    - 10,000 acres either fully or partially submerged and unable to utilize

- Levee Repair Options Under PL84-99
  - Rebuild levee in place
    - Pro – No new real estate acquisition required
    - Cons -
      - Most likely will require sheet piling which is very expensive
      - Only sections compromised are fixed
  - Ring levee around breaches
    - Pro – Do not build back scour hole which will lead to solid foundation for building
    - Con – Creates weakened sections of the levee
  - Setback levee to new ground
    - Pros –
      - New levee system
      - Allows for levee construction improvements (5 to 1 slope)
      - Provides extra distance between levee and bluffs allowing for more freeboard
    - Con – Requires acquiring new real estate of approx. 1,850 acres valued at @ \$6,000 / acre pre disaster
- Challenges Going Forward
  - Funding
  - Real Estate Acquisition
  - Borrow Material
  - Weather and River management
  - Coordination with other levee districts
- **Questions / Comments Working Group**
  - Complete raising of Hwy 136 concurrently with levee setback
- Department of Conservation spoke briefly in support of setback and helping to promote purchase of real estate needed
- The Nature Conservancy (TNC) provided information about their ability to provide “bridge funding”

## Discussion of Current Draft Recommendations

### Public Comments:

- Miasah Khan – MO Coalition for the Environment; Reflected that the outlook for 2020 spring bleak and presented information on additional “tools” that me helpful to the group.
- Jennifer Switzer – USACE Kansas City District; Pointed out the high damages to the levees in Atchison County are what is making setback option possible under PL94-88 guidelines. Stress to the group that any changes made to PL94-88 guidelines effect levees throughout the US, not just on the Missouri river. When asked by the working group to expand on other funding streams available to the USACE, she provided brief descriptions of the Silver Jacket Program, the Planning Assistance Program and Long Term Studies used to justify congressional spending.

- Jose Cruz – Wainwright Levee District; Commented on setbacks and the need for funding to accommodate compensation at rates of \$5,000 - \$8,000/acre to make feasible for farms participation. Landowners will need access to a 1031 exchange option in order to quickly purchase replacement farm land. Provided additional comments on fortifying existing levees and touched that some private levees are having trouble finding any funding help.
- Nicole: Homeowner in Hazelwood, MO and Missouri Coalition for the Environment intern – Encouraged group to consider nature based systems and get more city involvement.
- MDA Director Chinn announced the next meeting on 12/9/19. Group was adjourned.