

1 U.S. ARMY CORPS OF ENGINEERS, OMAHA DISTRICT
2 MISSOURI RIVER BASIN WATER MANAGEMENT DIVISION

3
4 In Re: Proposed Changes to the
5 Guidelines for the Missouri River
6 Mainstem Systems Operation

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10 TRANSCRIPT OF
11 PUBLIC HEARING
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17 Taken At
18 Doublewood Ramada Inn
19 Bismarck, North Dakota
20 October 23, 2001

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22
23 BEFORE COL. DAVID A. FASTABEND
24 NORTHWESTERN DIVISION COMMANDER
25

1 C O N T E N T S

2	STATEMENTS BY:	Page No.
3	GOVERNOR JOHN HOEVEN	4
4	ALLYN SAPA	10
	JIM BERKLEY	13
5	KEN ROYSE	16
	ANDY MORK	20
6	WALTER SMALL	24
	LEE KLAPPRODT	25
7	LAUREN LESMEISTER	26
	MIKE DONAHUE	27
8	ROSE NICHOLS	28
	CURT DAHL	29
9	DAN VONDRACHEK	31
	WILLIAM BEACOM	32
10	JONATHAN BRY	35
	BARBARA WICKS	39
11	SHEILA DUFFORD	40
	ED DOSCH	41
12	BOB SCHAIBLE	45
	PEMINA YELLOW BIRD	48
13	DAVID SPRYNCZYNATYK	50
	DEAN HILDEBRAND	53

14

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1 (The proceedings herein were had and made
2 of record, commencing at 7:10 p.m., Tuesday,
3 October 23, 2001, as follows:)

4 (Videotape played and introduction given
5 by Col. Fastabend.)

6 COL. FASTABEND: I will now call the names
7 of those who have submitted cards beginning with
8 the elected officials. Therefore, I invite
9 Governor John Hoeven.

10 GOVERNOR HOEVEN: Thank you, Colonel, and
11 welcome to North Dakota. It's good to have you and
12 your team here. Bob Harms, my legal counsel, will
13 provide a copy of the statement for you and for
14 your court reporter so that she doesn't have to
15 type it in. I've got a written statement, but I'll
16 just read excerpts from it in the interest of time
17 and try to be mindful of the fact that you've got a
18 lot of folks here to testify and a long evening.

19 On behalf of the State of North Dakota, I
20 offer the same clear and consistent message that we
21 and adjoining states have been voicing for years.
22 The Master Manual must be changed, and the time for
23 that change is long overdue. In addition to my
24 comments, state agencies will be submitting further
25 comments in the coming months for you to consider,

1 as well as tonight, of course.

2 The five mainstem dams authorized by the
3 Flood Control Act of 1944 were constructed in 18
4 years. If the Master Manual revision is completed
5 in 2003 as scheduled, it will have taken 14 years.
6 Any further delay to the Master Manual is just not
7 acceptable.

8 Because the process has taken so long,
9 some historical perspective is necessary. A major
10 controversy arose in 1988 and was portrayed in the
11 film that you just showed with the unnecessary and
12 rapid drawdown of Lake Sakakawea, Oahe and Fort
13 Peck. The drawdown caused significant adverse
14 impacts to many users of the Missouri River.
15 Citizens suffered substantial losses of water for
16 various uses, forcing businesses to be closed and
17 causing untold economic damages. The upper basin
18 states sued the Corps of Engineers to prevent
19 similar treatment in future years. The Corps was
20 directed by the courts to address the contemporary
21 needs of society and consider revisions to the
22 Master Manual.

23 After years of negotiations, seven of the
24 eight states are ready for a change. Seven of the
25 eight states are ready for a change. It is no

1 longer upstream states fighting with downstream
2 states. Kansas, Nebraska and Iowa agree with the
3 upper basin states that drought conservation
4 measures are necessary. Believe it or not, even
5 within the State of Missouri there are other
6 individuals and even agencies that recognize the
7 current water management plan for the Missouri
8 River needs to be changed. This new process has
9 taken seven more years and has cost millions of
10 dollars, so we should now conclude this long
11 journey by making the necessary changes.

12 In addition to the states agreeing that
13 change is warranted, there are other reasons for
14 change.

15 The Missouri River is of vital importance
16 to the State of North Dakota. Power generated by
17 the Missouri River dams provides affordable
18 electric rates for our citizens and to the citizens
19 of neighboring states. Seven coal-fired plants use
20 the water for cooling and six other industrial
21 users, including the Tesoro Oil Refinery and the
22 Dakota Gasification plant, make use of the Missouri
23 River water. Approximately 16 percent of the total
24 irrigated area in North Dakota uses Missouri River
25 water.

1 The Missouri River, Sakakawea, and Lake
2 Oahe provide recreation opportunities to hundreds
3 of thousands of residents and visitors to the
4 state. In the year 2000, almost half a million
5 people.

6 The quality of the water on the Missouri
7 River is important for municipal water supply and
8 cold-water habitat. If the elevation of Lake
9 Sakakawea falls below 1,825 feet during mid to late
10 summer, the reduced oxygen concentration puts the
11 nationally acclaimed sport fishery of the big lake
12 in serious jeopardy. Low lake levels also increase
13 risk to human health through the resuspension of
14 sediment from the delta portion of the lake.

15 The cultural and historical sites along
16 the Missouri River are important to the state, the
17 Standing Rock Sioux Tribe and the Three Affiliated
18 Tribes, and further warrant change in the
19 management of the river. Many of these cultural
20 resources are destroyed on a daily basis through
21 erosion, looting, and the absence of shoreline
22 protection and stabilization. Stable lake levels
23 would impact fewer sites so that a change in the
24 operating plan that results in more stable lake
25 levels in times of drought would benefit a resource

1 that might otherwise be lost forever.

2 The draft environmental statement supports
3 change by the benefits outlined in the five
4 alternatives. They improve conditions for
5 endangered species and conserve water in the
6 mainstem reservoir during times of drought.
7 Unbalancing the reservoirs and increasing releases
8 at Fort Peck may provide benefits for the pallid
9 sturgeon, least tern and piping plover. Conserving
10 water in the reservoirs during dry periods improves
11 conditions for fish survival and thus recreation,
12 and translates into more head for hydropower. If
13 these alternatives would have been in place during
14 the drought of the late 1980s, Lake Sakakawea would
15 have been four to six feet higher, translating into
16 far better fish habitat, more efficient hydropower
17 and an overall improvement in the economy of the
18 areas that border the Missouri River.

19 I want to turn to the economic realities
20 that further demonstrate the need for change.
21 Recreation has flourished on the Missouri River
22 system. Navigation is less than one-tenth of the
23 economic benefit of recreation. The recreation
24 industry dwarfs navigation in national economic
25 benefits of about \$85 million a year versus about

1 \$7 million a year, respectively. Navigation can no
2 longer dictate management of the entire river
3 system. Navigation provides jobs and
4 transportation alternatives to people in Missouri,
5 but we need to manage the river wisely and upon
6 facts that provide the most benefit to the basin
7 and to our country.

8 The drought conservation measures included
9 in the five alternatives are essentially those
10 agreed to by seven of the eight Missouri River
11 Basin Association member states. Strictly from
12 North Dakota's standpoint, they don't go far
13 enough, but they are likely the most equitable
14 means of distributing hardship during drought and
15 are supported by seven of the eight states within
16 the basin, including North Dakota. These drought
17 conservation measures proposed by the Missouri
18 River Basin Association should be implemented as
19 soon as possible and will be a vast improvement
20 over the 40-year-old Master Manual.

21 In concluding, the previous drought had
22 terrible consequences for North Dakota businesses
23 that were built upon recreation on the Missouri
24 River. It has taken a decade for our people to
25 recover from that disaster. Uncertainty caused by

1 the Corps' management during drought has impeded
2 capital investment and development for new and
3 existing businesses that would build upon the
4 Missouri River's marvelous potential. If we are to
5 sustain the recreation industry, we must
6 incorporate conservation measures that stabilize
7 reservoir levels during the drought.

8 We know the hardships of drought cannot be
9 entirely avoided. However, those hardships should
10 not be aggravated by sacrificing the interests of
11 all others to float a handful of barges in the
12 lower Missouri. This is not wise management. It
13 is not responsible management and it is not fair
14 management. The pain of drought must be shared
15 equally.

16 There is no question that any of the five
17 proposed alternatives is a marked improvement over
18 the current water control plan. The results of the
19 economic and environmental studies clearly
20 illustrate how the Missouri River and the
21 reservoirs can be better managed to benefit us, our
22 children and the entire Missouri River Basin. If
23 we manage those resources intelligently,
24 realization of their potential can benefit us all.
25 On behalf of the people of North Dakota and the

1 Missouri River Basin, I submit it is time for a
2 change on the Missouri River.

3 Thank you very much for this opportunity
4 to testify. I appreciate it.

5 COL. FASTABEND: Thank you for your input,
6 Governor.

7 MR. MOORE: Allyn Sapa.

8 MR. SAPA: Good evening. My name is Allyn
9 Sapa. I'm here on behalf of the Fish and Wildlife
10 Service to issue a brief statement on the revised
11 draft environmental impact statement for the
12 Missouri River Master Water Control Manual. I'm
13 also here to listen to comments in person from
14 citizens on this important issue.

15 The service has the primary authority for
16 oversight of our nation's rarest animals under the
17 Endangered Species Act. The Missouri River is home
18 to the endangered pallid sturgeon and least tern
19 and the threatened piping plover. The decline of
20 these species tells us that the river is not
21 healthy for its native fish and wildlife and that
22 there needs to be a change in its management to
23 restore the Missouri to a more naturally
24 functioning river system. A healthy river provides
25 wildlife habitat, supports fishing, and makes

1 boating an attractive recreational activity.

2 Congress committed the federal government
3 to preventing extinctions by requiring federal
4 agencies to use their authorities to conserve
5 endangered and threatened species. During the last
6 12 years our agency has been working with the Army
7 Corps of Engineers to modernize the management of
8 the Missouri River to help stabilize and,
9 hopefully, begin to increase and recover
10 populations of these very rare animals. This new
11 approach was described recently in a document
12 called the Missouri River Biological Opinion,
13 published in November of 2000.

14 The biological opinion looks at the river
15 as a system and outlines the status of these rare
16 species, the effects of the current operation on
17 them, and a reasonable and prudent alternative to
18 the current operation that will not jeopardize
19 their continued existence.

20 Our biological opinion is based on the
21 best available science and includes nearly 500
22 scientific references. In addition, we've sought
23 out six respected scientists--big river
24 specialists--who confirm the need to address flow
25 management, as well as habitat restoration.

1 Further, the Missouri River Natural Resources
2 Committee, a group comprised of the state experts
3 on the Missouri River management, endorses the
4 science in the opinion.

5 If you have read the RDEIS or the summary
6 document, you understand that the GP alternatives
7 encompass the range of flows identified by the
8 service as necessary below Gavins Point Dam to keep
9 the listed species from being jeopardized. Our
10 agency and the Corps also recognize the importance
11 of some flexibility in management that would enable
12 Missouri River managers to capitalize on existing
13 water conditions to meet endangered species
14 objectives without having to go through another
15 12-year process.

16 Other management changes identified in the
17 biological opinion include a spring rise out of
18 Fort Peck Dam, an improved hatchery operation to
19 assist declining pallid sturgeon populations,
20 restoration of approximately 20 percent of the lost
21 aquatic habitat in the lowest one-third of the
22 river, intrasystem unbalancing of the three largest
23 reservoirs, and acceptance of an adaptive
24 management framework that would include improved
25 overall monitoring of the river.

1 In closing, the service supports the
2 identified goal of the revised Master Manual to
3 manage the river to service the contemporary needs
4 of the Missouri River Basin and the nation. These
5 needs include taking steps to ensure the threatened
6 and endangered species are protected while
7 maintaining many other socioeconomic benefits being
8 provided by the operation of the Missouri River
9 dams. The service stands behind the science used
10 in the opinion and is confident that the
11 operational changes identified in our opinion and
12 included in the RDEIS as GP alternatives will
13 ensure that these rare species continue to be a
14 part of the Missouri River's living wildlife
15 legacy.

16 The Missouri River is a tremendous river,
17 with a significant and revered heritage. Our
18 influence has altered that river greatly. Changes
19 are needed to modernize and restore health to the
20 river for the benefit of rare species and for
21 people. Thank you.

22 COL. FASTABEND: Thank you, Mr. Sapa.

23 MR. MOORE: Jim Berkley.

24 MR. BERKLEY: My name is Jim Berkley, and
25 I represent the U.S. Environmental Protection

1 Agency. Good evening. As I mentioned, my name is
2 Jim Berkley. I'm here this evening on behalf of
3 EPA to make a statement regarding our review
4 responsibilities relative to the revised draft
5 environmental impact statement for the Master
6 Manual. I'm also here, as the Fish and Wildlife
7 Service mentioned, to listen to what the public has
8 to say.

9 The Environmental Protection Agency is
10 required by law to conduct independent reviews and
11 provide written comments and a rating for all
12 environmental impact statements. The law requires
13 EPA also to make its written comments available to
14 the public.

15 When EPA reviews and rates an
16 environmental statement, it focuses on two main
17 areas. One is the degree of environmental effects
18 of the proposed federal action, and the other is
19 whether the environmental impact statement includes
20 sufficient analyses needed for the public and
21 decisionmakers to understand the impacts of
22 alternative plans under consideration. A critical
23 aspect of this responsibility is to assess whether
24 or not the action agency, the Corps in this case,
25 has complied with all environmental laws,

1 regulations, and executive orders such as the
2 Endangered Species Act, Clean Water Act and
3 Environmental Justice.

4 EPA has been working with the Corps of
5 Engineers since their initial decision to update
6 the Master Manual. EPA is currently in the process
7 of reviewing the RDEIS. Once our review is
8 complete, our comments will be provided to the
9 Corps in written form. The comments will also be
10 made available on EPA's Website. If anyone is
11 interested in that address, please come talk to me
12 when there's a break.

13 EPA understands that the issues and
14 concerns are complex. That is why EPA teamed up
15 with the Corps of Engineers to ask the National
16 Academy of Sciences to provide an objective study
17 by national experts on the state of the scientific
18 information about Missouri River management. The
19 study will also recommend ways to improve
20 scientific knowledge of the Missouri River
21 ecosystem and approaches to adaptive management of
22 the Missouri River and floodplain ecosystem.

23 EPA looks forward to its continued work
24 with all of the stakeholders of the basin. If
25 there are any questions and you would like to

1 contact EPA, you may do so by contacting me. And I
2 have a bunch of cards. I would be happy to hand
3 some out if anybody is interested. And I also have
4 some counterparts out of our Kansas City office,
5 and I can also put you in contact with them. So
6 thank you very much.

7 COL. FASTABEND: Mr. Berkley, when do you
8 expect the NAS statement to be released?

9 MR. BERKLEY: That is expected to be
10 released at the beginning of January.

11 COL. FASTABEND: Okay. Thank you.

12 MR. MOORE: Ken Royse.

13 MR. ROYSE: Good evening, Colonel.
14 Welcome to Bismarck, North Dakota, for this public
15 meeting on the revised draft environmental impact
16 statement. My name is Ken Royse, and I currently
17 have the opportunity to serve on the Burleigh
18 County Water Resource Board. Our County Water
19 Resource Board is authorized by state law to
20 provide a vehicle for local grassroots water
21 management and development of our water resources.
22 And in Burleigh County, as in the whole of North
23 Dakota, there is no greater single water resource,
24 nor any single natural resource, which has a
25 greater impact on our lives and our economy and on

1 our present standard of living and our future than
2 the Missouri River.

3 In recent years our board has taken a
4 wider interest in the Missouri River. We are still
5 concerned with the ever increased volumes of
6 sediment which are continually and constantly
7 deposited, day by day and hour by hour, in our
8 river. And we still believe that the permitting
9 and access to this river, functions controlled to a
10 very large extent by the Corps, are cumbersome and
11 burdensome and are processes which desperately need
12 streamlining. But now we also have concerns which
13 reflect a greater awareness of the value of the
14 river to economic and recreational values of our
15 community and our state.

16 It is primarily the issues of economics
17 and recreation which I want to offer testimony on
18 today.

19 Our economy in North Dakota is based
20 primarily on agriculture. We are a dry land
21 farming state. There have been any number of
22 studies which project a vast increase in economic
23 benefits to land and areas along the Missouri River
24 if water can be accessed from that river for
25 irrigation purposes. But in order for that to

1 occur, the small farmers and the large irrigation
2 projects need assurance that there will be adequate
3 levels and flows in this river. Neither a small
4 farmer nor a large district can commit to expensive
5 infrastructure, intakes and pumps, unless there's
6 some assurance of a level within the river to
7 construct those facilities.

8 In addition to agriculture, the state
9 relies on tourism and recreation for economic
10 stability. Fishermen from all over the nation come
11 to our state to try their luck in our Missouri
12 River, boaters and water-skiers flock to our river
13 for the beauty and serenity of the river, and our
14 citizens of all ages enjoys swimming and sunbathing
15 along the many sandbars and beaches. To a large
16 extent, economic stability and economic opportunity
17 in North Dakota is tied directly to the water level
18 in the Missouri River and to the water level in the
19 Garrison and Oahe Dams.

20 I understand the needs of our downstream
21 neighbors to utilize water from that river in a
22 fashion most advantageous to them and their barge
23 traffic economy. In wet years, when there's too
24 much water, we are asked to hold that water, not to
25 release it too fast, not to increase the flooding

1 downstream. We are asked to do that even to our
2 own detriment in the interests of our downstream
3 neighbors.

4 And in the dry years those same neighbors
5 have no qualms of asking us for greater releases
6 out of the dams and out of the river. They ask us
7 this even though they are well aware that such
8 greater releases mean economic losses to our state
9 to the extent of many millions of dollars.

10 The message I want to give the Corps in
11 this testimony is simply that Burleigh County and
12 North Dakota needs water in our upstream
13 reservoirs. We need adequate reservoir levels for
14 economic stability, we need it for agricultural
15 needs, we need it for our recreational needs. We
16 need it for our domestic and industrial
17 development, we need it for power generation. We
18 need our upstream water to maintain a healthy
19 environment for riparian wildlife and for fish
20 populations.

21 In contrast, our downstream neighbors want
22 low flows in times of flooding and higher flows in
23 times of drought when it benefits them. They want
24 to continue to have the river managed for
25 navigation which equates to a huge federal subsidy

1 of their barge industry.

2 Thank you for the opportunity to provide
3 these comments. I hope that while you are in
4 Bismarck, you will have time to visit our Missouri
5 River. If you make that visit, you'll see the
6 damages caused by low river levels, including
7 erosion, land loss, and deposits of sediment.
8 Thank you very much.

9 COL. FASTABEND: Thank you, Mr. Royse.

10 MR. MOORE: Andy Mork.

11 MR. MORK: Colonel, members of your
12 staff. Again, welcome to North Dakota. And I
13 guess overall I have a sympathy for your mission
14 here because we know that you can't please all the
15 people all the time, and probably that's the
16 impossible thing we're working with.

17 As you can see, I've got a lot of wrinkles
18 and gray hair. I have been along the river a lot
19 of years. My first memory goes back to 1926 when I
20 observed the last of the paddle wheel boats
21 operating in the Bismarck area. I could tell you a
22 little bit more about that if I had the time. And
23 I've lived with the river pretty much ever since,
24 knew the river very well before the dams and, of
25 course, after the dams, and so on.

1 We object strongly to that statement some
2 are making that the Missouri River is one of the
3 most endangered rivers. It's certainly not true of
4 our area. It is one of the most improved rivers
5 and certainly one of the most changed rivers, we'll
6 certainly admit to that. But we certainly do have
7 remaining problems in our area.

8 I represent the BOMMM Joint Board, which
9 is a board composed under the laws of the State of
10 North Dakota. We represent the five counties
11 adjacent to the Missouri River from Garrison Dam
12 down to the Oahe Reservoir. We were organized in
13 1983, and our mission has been to protect the
14 riparian land from bank erosion during those
15 years. We've had some success, but more and more
16 is necessary to be done.

17 In looking over this proposed plan that
18 you have here, I'm not going to comment on each one
19 of them. I'm just going to somewhat generalize on
20 it because of the time we have.

21 It is obvious that the Corps no longer
22 controls the river for the greatest benefits of
23 navigation, flood control, hydropower, water
24 supply, and recreation. It is now dictated by the
25 Endangered Species Act through the Fish and

1 Wildlife Service to prioritize the endangered
2 species above all other purposes. There apparently
3 are no benefit/cost study requirements and the
4 resulting huge costs above benefits are obvious.

5 Some of these dollar costs are the loss of
6 hydro revenue by forcing high spring generation
7 when power is less valuable, loss to the navigation
8 industry and those it serves by curtailed
9 navigation, increased downstream flood losses, loss
10 of hydro revenue at Fort Peck by dumping up to
11 11,500 cfs over the top of the dam for six weeks
12 without it generating a bit of hydro revenue. And
13 this seems to be a first that has happened in the
14 dam system, I think in Pick Sloan Dams.

15 Also, of great concern especially to our
16 BOMMM Board, the way we're organized and for the
17 purpose we're organized, is increased bank erosion
18 in the Garrison to Oahe reach during the high Oahe
19 years. I should enlarge a little bit. In the
20 split-level concept, certain years our 80 miles of
21 river will have higher flows than they otherwise
22 would have been, and when the Oahe Reservoir wants
23 to be raised up, of course, the flip is -- the
24 opposite is true, and we'll have lower than normal
25 years. And we have just gone through a low -- a

1 bad low year because of drought this last year and
2 we know what detriment that can be to our overall
3 operation of the dam, including two of my
4 irrigation intakes that we were unable to operate
5 this summer. And, of course, in '97 we had that
6 extremely high, I think about a 200-year event that
7 went by here, and so we know what that is. So this
8 split-level concept is going to exacerbate or
9 enlarge on that.

10 There's one thing, a statement on page 27
11 that I take very serious issue with. It says, the
12 bank erosion is a function of the total volume of
13 water and not the distribution of that volume.
14 We've always contended, and the nine civil
15 engineers I've interviewed since that time agree
16 with me, that bank erosion is an exponential
17 function of the discharged water, not a straight
18 line function. And this concept, if the Corps
19 keeps on with that, why, they'll say it doesn't
20 matter when the water is discharged or what method
21 we discharge it, we won't have any more bank
22 erosion than if we had kept it steady.

23 In order to bring home that point, I've
24 got to tell you the story about my friend, Chub,
25 went to the doctor for health purposes and the

1 doctor told him he had to cut down on drinking,
2 only one drink a day, and Chub said, heck, that
3 wasn't worth it. I saved her up till the weekend.
4 And, you know, that relates clear to the outlet of
5 the water.

6 But BOMMM strongly supports the higher
7 summer levels in the Garrison Reservoir obviously
8 because of the tremendous recreation industry we
9 have here and because North Dakota gave up 550,000
10 acres of land to have this project put in as
11 compared to one of the states downstream that gave
12 up nothing in land.

13 So we'll take it -- we support the
14 preservation of the endangered species when it can
15 be done in concert with others and when there is
16 some reasonable benefit/cost studies connected with
17 it, but until then it's very difficult for us or
18 the public to support that.

19 I'll submit the statement here and I
20 appreciate the opportunity.

21 COL. FASTABEND: Thank you, Mr. Mork.

22 MR. MOORE: Walter Small.

23 MR. SMALL: Hello, Colonel. My name is
24 Walter Small. I live south of Bismarck. We
25 irrigate out of Lake Oahe, and we've had a

1 considerable amount of trouble appropriating water
2 from there, but the Corps of Engineers has helped
3 me get our pumps running.

4 And the impact of irrigation on the
5 economy of North Dakota is tremendous. The
6 wildlife and the irrigated fields is -- I mean, you
7 can see the benefits from it. And I just wanted --
8 I don't have no statement or nothing. I'll get
9 something in writing and send it to you later, but
10 I just wanted to make a comment. Thank you.

11 COL. FASTABEND: Thank you, Mr. Small.

12 MR. MOORE: Lee Klapprodt.

13 MR. KLAPPRODT: Hello, Colonel, and
14 welcome to Bismarck. I want to take just a moment
15 to express my viewpoint of what you've presented so
16 far tonight.

17 My name is Lee Klapprodt. I live here in
18 Bismarck, and I have a small bait and tackle
19 distributorship called Silver Strike Distributing.

20 I am very interested in the fact that the
21 Corps of Engineers has not selected a preferred
22 alternative to present in these hearings. I think
23 that's rather disappointing. It's like putting a
24 dart board in front of the public and expecting us
25 to shoot darts at the various option that we think

1 is the best way to go. I think what it does is
2 kind of sets the stage for a lot of disagreement,
3 that the Corps can then say that because of that
4 disagreement, that it's not going to change from
5 the current operating plan.

6 Based on my experience on Lake Sakakawea
7 over the last several years, the current operation
8 plan is really a disaster. It resulted in a
9 devastating impact to our coldwater fishery in Lake
10 Sakakawea after the drought of -- during the
11 drought and after the drought of the late 1980s and
12 early 1990s. That impact lasted until just the
13 last few years, we've started to see a rebound in
14 the fishing opportunity that we had prior to the
15 drought.

16 The current operating plan, as I said
17 before, is a disaster. We need to see a change.
18 Any of the alternate plans that you put up on the
19 dart board are preferable to the current operating
20 plan. Thank you.

21 COL. FASTABEND: Thank you.

22 MR. MOORE: Lauren Lesmeister.

23 MR. LESMEISTER: Hi. I'm Lauren
24 Lesmeister. I live here in Bismarck and I'm here
25 representing myself as a North Dakotan.

1 And I have been really interested in this
2 issue for a number of years and just lately I have
3 been doing a lot of reading about it and I've
4 looked over the six options, and I, too, was kind
5 of disappointed that the Corps didn't put out a
6 preferred option, but I do have one, and after
7 looking it over, I think that the plan that would
8 benefit the most people and the most states and do
9 the least harm to people and the fewest states
10 would be the flexible flow alternative. And I
11 think that's 2021, I think is the title of that
12 one. So that's my statement.

13 COL. FASTABEND: Thank you, Mr.
14 Lesmeister.

15 MR. MOORE: Mike Donahue.

16 MR. DONAHUE: Good evening. I'm Mike
17 Donahue. I represent the North Dakota Wildlife
18 Federation here in the State of North Dakota. I
19 would like to thank you for holding the hearing.
20 Our organization, we represent approximately 1,200
21 members from all walks, occupations around the
22 state.

23 We believe we as an organization have an
24 understanding of this issue, the river, and the
25 multiple interests in it. We believe there's a

1 broad understanding out there. There has been much
2 work going on here in the state. We believe
3 there's a large effort to communicate, coordinate
4 and cooperate in this whole matter as voiced by the
5 recommendation of seven of the eight states in the
6 Missouri River Basin Association.

7 What we would like to ask you to do is pay
8 attention to that recommendation and pay attention
9 to the comments of our governor tonight, that and
10 the recommendations being made by the U.S. Fish and
11 Wildlife Service.

12 As we see and as has been going on, what's
13 called for is a change. We see the current
14 operating plan as inflexible, it's not being
15 influenced by new scientific data, and it continues
16 to accept what we consider political influence from
17 downstream interests. That things have changed.
18 What was going on a hundred years ago is not what
19 we need in the next hundred years. Thank you.

20 COL. FASTABEND: Thank you, Mr. Donahue.

21 MR. MOORE: Rose Nichols.

22 MS. NICHOLS: My name is Rose Nichols and
23 I'm from Lincoln, North Dakota. I just represent
24 myself. I just have a short comment.

25 I support the alternative GP2021 because

1 it's the most beneficial to wildlife while it still
2 observes the needs of industry, it balances the
3 needs of people with environmental protection for
4 the future.

5 COL. FASTABEND: Thank you, Miss Nichols.

6 MR. MOORE: Curt Dahl.

7 MR. DAHL: Colonel, my name is Curt Dahl.

8 I'm the current managing partner of Ricker's Marina
9 in Mandan, North Dakota. We are one of the oldest
10 marinas on the upper reach of the Missouri. This
11 marina has been in existence for over 45 years and
12 been in continuous operation. In the last 10 years
13 we have tripled the size and the use of the
14 facility just from public demand and use in the
15 Bismarck-Mandan area.

16 This past summer with the low flows we
17 managed quite well in the early part of the season,
18 and as we went down the summer and we were advised
19 by the Corps by the end of August, first part of
20 September to remove all our large boats, it
21 essentially shortened our business year by one and
22 a half months by the low levels that we have now.
23 And in my 25 years on the river, this is the lowest
24 levels that we have seen.

25 We would support the MCP alternative. We

1 would ask the Corps to take a harder look at cost
2 and benefit studies and ratios and particularly
3 land costs and land use. The numbers that are
4 being used today are outdated. Some of them date
5 back to as late as 1985. And there is no current
6 values being used, to our knowledge.

7 Mr. Mork addressed the page 27. I hope
8 it's a misstatement, the function of the total
9 volume versus the distribution of that volume.
10 Whoever made that statement has not lived on the
11 river and watched the erosion at the higher flows
12 over a shorter period.

13 If one of the other plans were to be
14 adopted in the flex plans and the flows, we here in
15 our reach, we need more erosion, bank stabilization
16 protection. One can simply look to Fort Pierre in
17 Pierre, South Dakota, and look at the buyout there
18 because of the delta that's formed in Lake Sharp.
19 And when that forms in south Bismarck, and I say
20 "when it forms," it's in the process of forming
21 right now from erosion, the buyout there and the
22 damage there will be many, many times of what
23 you're seeing in Fort Pierre today.

24 I've had the opportunity to attend three
25 of the Basin Association meetings, two in Kansas

1 City and one in Bismarck, and I've sat with all the
2 people that are the players. I've sat with the
3 barge people, I've sat with the wildlife, I've sat
4 with the tribes, I've sat with everybody. And we
5 were given the project or the goal to come to an
6 agreement, and by hook or crook we had to do it,
7 and one of the biggest things that I learned down
8 there, if you get the gain, you've got to share the
9 pain, and right now I think there's a big
10 difference in that the upper states are sharing a
11 lot more pain than the lower states and we would
12 like to see that equalized. Thank you.

13 COL. FASTABEND: Thank you, Mr. Dahl.

14 MR. MOORE: Dan Vondrachek.

15 MR. VONDRACHEK: Good evening, Colonel.

16 My name is Dan Vondrachek and I represent the Dam
17 Yacht Club. And for the sake of the
18 transcriptionist, that's a three-letter word, not
19 four. Point that out to her.

20 Our organization consists of about 70 or
21 80 members from Bismarck and Minot that utilize
22 Lake Sakakawea, and our primary interest is
23 obviously in the area of recreation. You've heard
24 that word many times tonight. It's important to a
25 lot of us that live in North Dakota.

1 Beacom. I am from Sioux City, Iowa. I am a
2 navigator pilot on the various rivers, including
3 the Missouri River.

4 One of the things that I find when we come
5 to a meeting like this, just like the gentlemen
6 talked to, we have to make decisions. Unlike the
7 old cowboy movies of the 40s and 50s, we can't tell
8 who the good guys and the bad guys are because we
9 don't have black and white hats to look at. And it
10 seems like the Corps of Engineers, even though
11 they're bareheaded, at the present time usually
12 have to wear the black hats.

13 It would seem to me that we should get a
14 little deeper into this subject and maybe we could
15 spread some of these black hats around. Now, I'm
16 not advocating that we should discontinue the
17 fishery in North Dakota, South Dakota and Montana,
18 but the fact of the matter is that all of the fish
19 that they're putting in there are nonnative, and
20 according to the Endangered Species Act they're not
21 supposed to be there to begin with.

22 Now, we can go in all kinds of circles
23 about what we're going to do to help these fish,
24 but we've got 32 species of fish in Montana, North
25 Dakota and South Dakota that are warm water species

1 that numbers are declining and they're being
2 predated on by these fish that they like to catch.

3 Now, do I want to shut down a fishery?

4 No, I don't. Do I think they should keep their
5 walleye? Yes, I do. But I also think that the
6 economic problems that we're suffering down south
7 balance the fact that they're breaking the law up
8 north. Now, there's a lot of fisheries biologists
9 that will say, oh no, this is not true. These are
10 native species. And believe it or not, they
11 figured that out in 1960 because a fisheries
12 biologist discovered some old data that they found
13 these fish in the lakes in the 1890s. Of course,
14 the previous data said they were planted there in
15 1874 to 1878. It seems like the railroads did the
16 planting, and every one of these lakes is within
17 walking distance of a railroad right-of-way.

18 My understanding is that all government
19 bodies and all state bodies are supposed to be
20 obeying the Endangered Species Act. They certainly
21 throwed it at the Corps of Engineers that they were
22 putting everything in jeopardy with the current
23 water control plan. And I think it's time they
24 looked into their own nest to see what their eggs
25 look like instead of going to the Corps of

1 Engineers with blame every time something comes
2 around. And if anybody wants to check that data,
3 it's very easily available on line, or if they want
4 to contact me, I'm available and I brought it with
5 me. Thank you.

6 COL. FASTABEND: Thank you, Mr. Beacom.

7 MR. MOORE: Jonathan Bry.

8 MR. BRY: Hello. My name is Jonathan Bry,
9 and I represent the Dakota Chapter of the Sierra
10 Club. I'm speaking to you not only as a
11 conservationist, but also as a person who has spent
12 countless days enjoying the Missouri River in North
13 Dakota. On any given summer day in North Dakota,
14 you can find many people enjoying an afternoon on a
15 sandbar. I feel very fortunate that we live near a
16 stretch of the Missouri River that has not been
17 channelized and still contains sandbars. The river
18 is capable of taking care of itself if we allow it
19 to flow in the most natural way possible.

20 I am very disappointed that the Army Corps
21 has decided not to endorse the recommendations of
22 the Fish and Wildlife Service as the preferred
23 alternative to the Master Manual. The needs of an
24 almost nonexistent barge industry are not nearly as
25 important as the needs of fish, wildlife and

1 people, all who use and depend on the Missouri
2 River. However, I am pleased that the Fish and
3 Wildlife Service recommends a change from the
4 current Master Manual and that the Army Corps of
5 Engineers is releasing alternatives.

6 The current water control manual places
7 the interests of the barge industry over the needs
8 of fish, wildlife and people. This outdated Master
9 Manual is jeopardizing the survival of the
10 endangered pallid sturgeon, the endangered least
11 tern and the threatened piping plover by providing
12 a near steady flow to support barge traffic
13 downstream rather than allowing for the natural
14 seasonal rise and fall of the river. A more
15 natural hydrograph needs to be reinstated.

16 Of the six alternatives, only the GP2021
17 flexible flow alternative fully encompasses the
18 flow recommendations in the Final Biological
19 Opinion.

20 And according to the Corps' analysis, this
21 alternative provides substantial fish and wildlife
22 benefits in comparison to the current water control
23 manual and other alternatives identified in the
24 revised draft environmental impact statement. It
25 does not impact other uses of the river like

1 floodplain farming, hydropower, or flood control.

2 The river depends on changes in flow to
3 complete the natural seasonal cycle that occurred
4 before the dams were constructed. A split
5 navigation season may not be a fix-all solution to
6 the restoration and recovery of the Missouri River,
7 but it is a very important first step. Opposing a
8 river that flows in a more natural manner
9 contradicts with our goals of conservation, and we
10 support the extensive study and recommendations of
11 the Fish and Wildlife Service.

12 The barge industry often claims that you
13 don't have to radically alter the flow of the river
14 to create wildlife habitat. First of all, the
15 river has already been radically altered to provide
16 a near steady flow of water to support the barge
17 industry. Managing the river using the
18 recommendations of the Fish and Wildlife Service
19 should not be considered a radical alteration since
20 it brings us closer to living with a more natural
21 river.

22 One option that I read about in the Omaha
23 World Herald for restoring piping plover and least
24 tern habitat below Gavins Point Dam was to build
25 sandbars. The idea of building man-made sandbars

1 rather than allowing the river to create them
2 naturally is disturbing. A natural sandbar is like
3 a beautiful piece of sculptured art and the
4 dynamics of a healthy sandbar are really quite
5 complicated. Areas that do not have sandbars on
6 the Missouri should feel deprived. They provide a
7 place to explore wind-swept sand dunes and wetland
8 areas, all teeming with life.

9 We have nearly engineered the Missouri
10 River to death. It seems that when we encounter an
11 engineering problem, we want to fix it with another
12 engineering project. We can help let nature take
13 its course if we allow the river to flow more
14 naturally.

15 The expense of maintaining the Missouri
16 River to accommodate an insignificant amount of
17 barge traffic does not justify the financial
18 benefits that the barge industry generates. This
19 industry is heavily subsidized and they fail to
20 mention that when they compare the costs of
21 shipping on the river with other forms of freight.
22 The expense of maintaining our river for this
23 relatively small industry and the environmental
24 cost of managing the Missouri River mainly for
25 navigation are very high costs to all of us.

1 The needs of upstream states like North
2 Dakota have been ignored for too long. It is time
3 to update the Master Manual for the Missouri
4 River. Please select the GP2021 alternative over
5 the current water control manual. Thank you.

6 COL. FASTABEND: Thank you, Mr. Bry.

7 MR. MOORE: Barbara Wicks.

8 MS. WICKS: Colonel, I am the wife of a
9 World War II hero. My husband's name was Chaskey
10 Wicks. He died seven years ago, in '94. And I
11 worked off the reservation for 16 of the 25 years I
12 was married to my husband, and I have a lis pendens
13 here of 1500 acres that is three and a half and
14 four miles off of the Missouri, up the Cannon Ball
15 River that was -- I know this is not the issue you
16 want to hear, but I didn't make it down to the
17 reservation area.

18 But what I want to say here is 80
19 acre-feet was taken from the reservation higher
20 than in Morton County or across the river in those
21 counties, and I think a prejudicial thing happened
22 at that time, plus the Indian people were only paid
23 one-third the amount of money the white people were
24 paid for their land. And my family has been a
25 political family, Joe Wicks -- going back to Joe

1 Wicks and Governor Langer. And I'm not a speaker,
2 but you heard what I had to say.

3 COL. FASTABEND: Thank you, Ms. Wicks.

4 MR. MOORE: Sheila Dufford.

5 MS. DUFFORD: Hi. My name is Sheila
6 Dufford. I'm president of Lewis and Clark Wildlife
7 Club here in the Bismarck-Mandan area. My
8 membership is made up of a lot of sportsmen and
9 outdoor enthusiasts and wildlife enthusiasts. We
10 use the Missouri River both for recreation and
11 fishing and consumptive uses, hunting, as well as
12 just enjoying wildlife and birdwatching.

13 It seems the river, the way it's been
14 managed in the past, has mostly been to the
15 detriment of the natural environment for industrial
16 uses and power generations. And all this is very
17 important, but I think we need to start sharing our
18 environment with some of the natural resources. As
19 we see more species become endangered, it's just an
20 indication of what's to come. These are the first
21 animals that are impacted by our activities.

22 And we need to learn to share these
23 resources with our world because if we continue to
24 utilize everything to the fullest extent, we're
25 going to leave this state and the resources, even

1 this world, less of a world to people who come
2 after us, our children and our grandchildren. They
3 won't have the opportunity to do the things that we
4 do. They won't have the opportunity to see the
5 things that we get to see because they'll no longer
6 be here. And this is kind of the gist of the
7 Endangered Species Act. I strongly support that.

8 The reservoirs along the Missouri are
9 unnatural habitats, and many of the endangered
10 species wouldn't live there anyway, so we also
11 support the game and fish that have been planted
12 there and the industry that's grown around that.

13 There has been a lot of benefit to the
14 dams, but we need to balance the benefits of
15 mankind, the benefits of the natural world and the
16 wildlife species that are here. I think we can do
17 that and I think that changes in the manual are
18 working in that direction. I support all the
19 alternatives over the current plan.

20 COL. FASTABEND: Thank you, Ms. Dufford.

21 Is there anyone else that would like to
22 make a comment? If you can give us your name and
23 organization, if you represent one.

24 MR. DOSCH: My name is Ed Dosch. I'm here
25 tonight speaking on behalf of the North Dakota

1 Sports Fishing Congress, an organization that
2 provides a political voice for all active fishing
3 clubs in North Dakota.

4 The Missouri River and its reservoir are
5 extremely important to us, so we appreciate this
6 opportunity to provide our thoughts on the revised
7 draft of the Missouri River Master Manual.

8 We are very disappointed that it has taken
9 the Corps of Engineers so long to come up with an
10 alternative to the existing Master Manual. We are
11 even more disappointed that the Corps has failed to
12 name a preferred alternative. Failing to do so has
13 made it very difficult for us to be specific with
14 our comments. Accordingly, our statement tonight
15 will be general in nature. If a specific
16 alternative finally surfaces, you can count on us
17 to expand on these comments.

18 North Dakota anglers experienced a painful
19 inadequacy of the current Master Manual during the
20 drought of the late 1980s and early 1990s. It was
21 very obvious that the Master Manual used to govern
22 the operation of the system's reservoir did not
23 adequately recognize the major significance of
24 recreation and other upstream uses. Instead, it
25 dictated to the Corps that they service an

1 insufficient, tiny fleet of rusty barges at the
2 expense of other users.

3 Thankfully good sense, not to mention the
4 threat of a lawsuit, caused the Corps to deviate
5 from the current Master Manual to address the
6 critical needs of other authorized system users
7 during that drought. It has taken a decade to
8 restore the fisheries on Lake Sakakawea to what it
9 was before the last major drought.

10 The Lake Sakakawea fishery has finally
11 regained its national significance demonstrated by
12 the fact that they host several major fishing
13 derbies each year. Unfortunately, the new draft
14 annual operating plan based on that same tired, old
15 Master Manual again calls for potentially
16 sacrificing our fisheries and benefits to other
17 system users at the expense of floating an even
18 smaller number of barges. This can and must
19 change.

20 We have been reading in the news lately
21 that after years of negotiations seven of the eight
22 member states of the Missouri River Basin
23 Association are in agreement that change in
24 operation of the Missouri River system is badly
25 needed. We find this very encouraging since it

1 signals a change from the longstanding upstream
2 versus downstream fighting. We appreciate the fact
3 that all but one of the lower basin states are in
4 agreement that drought conservation measures are a
5 necessary component in the new Missouri River
6 Master manual. We wholeheartedly add our support
7 for drought conservation.

8 As you see, there is a huge disparity in
9 the system's benefit under the current Master
10 Manual. Since North Dakota gave over 500,000 acres
11 of prime land to the reservoir, we believe we
12 should have change in the Master Manual that
13 protects upstream interests during drought like
14 downstream interests are provided during floods.
15 The Corps' study shows that the entire region and
16 the nation will benefit from the changes in the
17 Master Manual. This cannot be ignored because a
18 few politically powerful barge companies want the
19 system operated to satisfy their greed.

20 Any of the five proposed alternatives is a
21 marked improvement over the current water control
22 plan. Like others in this room, we believe the
23 Missouri River Master Manual must be changed to the
24 contemporary need of the basin, and the time for
25 change is overdue.

1 COL. FASTABEND: Thank you, Mr. Dosch.

2 Mr. Dosch, if you would fill out one of these cards
3 so we have a good record of how your name is
4 spelled and everything, that would be helpful.

5 MR. DOSCH: I did fill one out when I came
6 in.

7 COL. FASTABEND: Okay. It didn't turn up
8 in the pile. Anybody else want to make a comment?

9 MR. SCHAIBLE: Good evening, Colonel. My
10 name is Bob Schaible. It's a good German
11 pronunciation, by the way.

12 COL. FASTABEND: Oh, that helps.

13 MR. SCHAIBLE: If you can get the S-c-h,
14 you got it pretty much made.

15 COL. FASTABEND: Good enough.

16 MR. SCHAIBLE: Anyhow, I'm here speaking
17 on my own behalf. And over the years I have been
18 involved in the Boy Scout program. I have taken
19 scouts down the Missouri River four times. I know
20 that there's other troops in this area that go down
21 the river almost annually.

22 But, anyhow, I have seen the use of the
23 Missouri River grow tremendously in the last 15
24 years. The troops typically start at the tailrace,
25 and that might be on a Thursday or Friday

1 afternoon, and a lot of times we'll get into Sunday
2 afternoon traffic. And when we first started
3 coming down the river, we could go to the Fox
4 Island exit or entrance, the boat landing there,
5 and we could get off the river without having a lot
6 of river traffic, boat traffic, and that type of
7 thing. The last few years it's a little more
8 difficult because you typically get to Bismarck
9 about noon and there's a great deal of traffic on
10 that river.

11 And so I guess I say that because I wanted
12 to point out the fact that the river is being used
13 more and more every year. And you have had
14 businessmen that talk about businesses, selling
15 boats and they're selling boats and people using
16 the river more and more.

17 I'm also concerned about the wildlife,
18 wildlife in the river, wildlife on shore and in the
19 riparian areas. I think that you need to take that
20 into consideration. You and several people here
21 touched on the pallid sturgeon. I hope that in the
22 future there will be more than just a pallid
23 sturgeon in a piece of plastic that our children
24 and grandchildren can see.

25 I borrowed this from my friends from the

1 U.S. Fish and Wildlife Service, and I brought it
2 here tonight to make a point, because unless some
3 changes are made, this is the only way people are
4 going to see the pallid sturgeon in the future, and
5 I think that's pretty sad. Of course, you know
6 about the piping plover and the least tern.

7 I hope that the legacy that I and those
8 people that are in the room tonight can leave
9 behind is that this has been a plan that has been
10 well thought out. The thing is that we have to
11 think of scouts, we have to think of our children,
12 and what your plan is going to do to people 10 or
13 15 or 50 years from now. And so I want to leave
14 that with your thought in mind.

15 I guess I wrote a note to myself here, I
16 think the best thing would be the flexible flow
17 plan, the alternative. And the reason I say that
18 is because it's when the water is there, you know,
19 let the water flow through the system. But when
20 it's not, then you have to be concerned about what
21 the impact is from top to bottom. And that starts
22 from Three Forks, Montana, where Lewis and Clark
23 ventured to, as everyone here knows, and it ends at
24 St. Louis where Lewis and Clark started from. And
25 going back 200 years, the legacy is that you're

1 developing something tonight or in the near future
2 that's going to be a legacy for our children and
3 you need to keep that in mind. And I thank you for
4 the opportunity to speak tonight.

5 COL. FASTABEND: Does anyone else want to
6 make a comment?

7 MS. YELLOW BIRD: In the languages of an
8 indigenous nation of which I am a citizen, I just
9 greeted you with respect, and I said today is a
10 good day. My name is Pemina Yellow Bird. I'm an
11 enrolled member of the Mandan, Hidatsa and Arikara
12 Nation.

13 On behalf of our people, I want to welcome
14 you here to our aboriginal homelands. Long before
15 anyone else saw what we call the Missouri River,
16 our mysterious or holy grandfather, our peoples
17 were occupying both sides of the river for many,
18 many millennia. You are in our homelands so we're
19 glad to see you here.

20 COL. FASTABEND: Thank you.

21 MS. YELLOW BIRD: You're going to be in
22 our reservation homelands tomorrow for a hearing,
23 so I won't go into any great depth except to say
24 that the revised draft environmental impact
25 statement is weakest in its assessment of the

1 impacts of the current water control plan and all
2 of the alternatives to our sacred and cultural
3 sites. There's very little study done on current
4 impacts or any impacts under any of the
5 alternatives. And what study has been done is
6 practically useless to our nation as we try to
7 determine what would be the best choice among the
8 alternatives.

9 The assessment that's been done did not
10 take into consideration erosion, what erosion does
11 to our sacred and cultural sites. What you folks
12 call historic properties are sacred to us. Your
13 assessment did not take into consideration looting
14 and the illegal sale of the contents of our
15 relatives' burials or other artifacts that are
16 exposed due to lower water levels.

17 The United States Army Corps of Engineers
18 has consistently failed to appropriate adequate and
19 appropriate moneys to stabilize the shoreline to
20 prevent the destruction and the degradation of our
21 sacred and cultural sites, and we are not going to
22 be able to adequately assess that issue unless we
23 have accurate, correct data which we do not have in
24 the revised draft EIS.

25 In order to minimize any further damage to

1 our sacred and cultural sites, we must maintain a
2 pool level at 1825. This is even more urgent when
3 you realize that I and others my age are the first
4 generation of ancient, ancient peoples to grow up
5 not knowing what our homelands looked like because
6 our homelands were flooded out. What little we
7 have left is precious to us and it's necessary for
8 the continuity and the revitalization of living
9 cultures and spirituality.

10 I want to say thank you to you for
11 listening to me and look forward to seeing you in
12 our homelands tomorrow. Good night.

13 COL. FASTABEND: Thank you. See you
14 tomorrow.

15 Would anyone else like to make a
16 statement?

17 MR. SPRYNCZYNYATYK: Good evening,
18 Colonel. For the record, my name is David
19 Sprynczynatyk. I'm a resident of Bismarck, North
20 Dakota. And the words of one of my favorite
21 philosophers is deja vu all over again.

22 For the past 30 years I have had an
23 opportunity to work in water resources, and during
24 that period of time I don't know how many times we
25 have sat through hearings, through meetings,

1 through discussions on the management of the
2 Missouri River. The fact is the management of the
3 Missouri River is one of the most contentious
4 issues there is within the basin states, but the
5 fact is also that for the people of North Dakota
6 economic development and Missouri River are
7 synonymous. To us it's a matter of water supply,
8 it's a matter of irrigation, it's a matter of
9 recreation, it's a matter of fish and wildlife.
10 And the fact is that the Missouri River is our
11 lifeblood.

12 I would ask you, if nothing else, to
13 seriously consider the changes that need to be made
14 in order to best serve the people of all the
15 Missouri River Basin with the Missouri River. The
16 fact is the video earlier tonight said on several
17 occasions that priorities and needs have changed.
18 I think you've heard that this evening, that we
19 need to recognize that not only in the upper basin
20 states, but I would hope in the lower basin states,
21 too, priorities and needs have changed, and for
22 that very simple reason I think we need to make
23 adjustments to the management of the system.

24 I think there are ways to do that. I
25 think what the Corps has done is laid out several

1 excellent plans that can recognize the changes that
2 need to take place that will in fact benefit all of
3 the people.

4 I think it's important that both fairness
5 and equity be considered as the decision is made,
6 and that fairness and equity has to be in
7 considering both the pain that's suffered by
8 everyone, as well as the benefits that are to be
9 gained.

10 Earlier this evening the gentleman from
11 the lower basin states made the comment about how
12 things aren't natural today. Well, they may not be
13 natural, but we still have a very important natural
14 resource available to us, and we have to be very
15 careful in how we manage it and we need to
16 recognize what it means for the future.

17 The last comment I would make is that I
18 think the record would show that prior to 1943 and
19 1944, people in the lower basin swore at the upper
20 basin states to keep their water, and I think
21 you'll also find that since the dams have been
22 built and the capability to manage the system has
23 been put into place, some of those same people are
24 now saying we want our water. The fact is that
25 water belongs to all the people in the Missouri

1 River Basin and to the resources that exist in this
2 area, and I would ask that the Corps seriously
3 consider making changes, recognizing what needs to
4 be done to protect the people of the basin, as well
5 as the natural resources. Thank you.

6 COL. FASTABEND: Thank you, Mr.
7 Sprynczynatyk.

8 Would anyone else like to make a comment?

9 MR. HILDEBRAND: For the record, my name
10 is Dean Hildebrand. I'm the director of the North
11 Dakota Game and Fish Department.

12 In the interest of time, I want to
13 introduce what General Sprynczynatyk, the prior
14 speaker to me, had to say. I think he put it
15 succinctly, and our governor certainly expressed
16 our interests, and I would like to go on record
17 supporting that testimony.

18 COL. FASTABEND: Thank you, sir. Are
19 there any additional comments?

20 In closing, I would like to remind all of
21 us that the hearing administrative record is going
22 to be open through 28 February 2002, for anyone
23 wishing to submit written, faxed, or electronic
24 comments. Also, if you want to be on our mailing
25 list to receive a copy of the transcript, you need

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CERTIFICATE OF COURT REPORTER

I, Denise M. Andahl, a Registered
Professional Reporter,

DO HEREBY CERTIFY that I recorded in
shorthand the foregoing proceedings had and made of
record at the time and place hereinbefore
indicated.

I DO HEREBY FURTHER CERTIFY that the
foregoing typewritten pages contain an accurate
transcript of my shorthand notes then and there
taken.

Bismarck, North Dakota, this 1st day of
November, 2001.



Denise M. Andahl
Registered Professional Reporter



— State of —
North Dakota

Office of the Governor

John Hoeven
Governor

October 23, 2001

Welcome to North Dakota.

On behalf of the State of North Dakota I offer the same clear and consistent message that we and adjoining states have been voicing for years. **The Master Manual must be changed and the time for that change is long overdue. In addition to my comments, state agencies will be submitting further comments in the coming months for you to consider.**

Time for change:

The five mainstem dams authorized by the Flood Control Act of 1944 were constructed in 18 years. If the Master Manual revision is completed in 2003, it will have taken 14 years. The people of North Dakota and the Missouri River Basin can wait no longer. To reinforce this point, on September 18, I joined five other governors, in a letter to the President urging him to see that changes in the Missouri River management are made and within a timely manner. In the past decade, we settled lawsuits that provided equal footing for upper basin needs, expecting the new Master Manual would be completed in a reasonable time. Fourteen years is long enough. Any further delay to the Master Manual is not acceptable.

Some History:

Because the process has taken so long, some historical perspective is necessary. A major controversy arose in 1988 with the unnecessary and rapid drawdown of Lakes Sakakawea, Oahe, and Ft. Peck. The drawdown caused significant adverse impacts to many users of the Missouri River. Citizens suffered substantial losses of water for various uses, forcing businesses to be closed and causing untold economic damages. The upper basin states sued the Corps of Engineers to prevent similar treatment in future years. The Corps was directed by the Courts to address the contemporary needs of society and consider revisions to the Master Manual. In 1989, it initiated the first update of its Master Manual. In 1994, the Corps published a preferred alternative, which met with widespread criticism throughout the basin. As a result, the Corps initiated a new process to rewrite the Master Manual. Although I'm very disappointed that this process has taken so long, it is extremely important for everyone to understand that since 1994 significant agreement has been reached among the basin states.

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- The cultural and historical sites along the Missouri River are important to the State, the Standing Rock Sioux Tribe and the Three Affiliated Tribes, and further warrant change in the management of the river. Many of these cultural resources are destroyed on a daily basis through erosion, looting, and the absence of shoreline protection and stabilization. Stable lake levels would impact fewer sites, so a change in the operating plan that results in more stable lake levels in times of drought would benefit a resource that may otherwise be lost forever. These steps should be followed by the commitment of resources to stabilize the shoreline in order to protect and preserve these cultural and historical sites.

The draft EIS supports change by the benefits outlined in the five alternatives. They improve conditions for endangered species and conserve water in the mainstem reservoirs during times of drought. Unbalancing the reservoirs and increasing releases at Ft Peck may provide benefits for the pallid sturgeon, least tern and piping plover. Conserving water in the reservoirs during dry periods improves conditions for fish survival and thus recreation, and translates into more 'head' for hydropower. If these alternatives would have been in place during the drought of the late 1980s, Lake Sakakawea would have been 4 to 6 feet higher, translating into far better fish habitat, more efficient hydropower and an overall improvement in the economy of the areas that border the Missouri River.

I want to turn to economic realities that further demonstrate the need for change. When the great dams were built, navigation was expected to move 20 millions tons of goods annually yet, that projection was unrealistic, with current levels of navigation being a paltry 1.5 million tons of goods annually. Recreation, however, has flourished on the Missouri River system. Navigation is less than 1/10th of the economic benefit of recreation. The recreation industry dwarfs navigation in national economic benefits of \$84.7 million and \$7.0 million respectively. Navigation can no longer dictate management of the entire river system, especially in view of the system-wide benefits that total \$1.9 billion annually. Navigation provides jobs and transportation alternatives to people in Missouri, but we need to manage the river wisely and upon facts that provide the most benefit to the basin and to our country. In view of the economics, the justification for change is obvious.

What we want--Agreement on drought control strategies:

The drought conservation measures included in the five new alternatives are essentially those agreed to by seven of the eight Missouri River Basin Association member states. Strictly from North Dakota's standpoint, they do not go far enough. But, they are likely the most equitable means of distributing hardship during drought and are supported by seven of the eight states within the basin, including North Dakota. These drought conservation measures proposed by MRBA should be implemented as soon as possible and will be a vast improvement over the 40-year-old Master Manual.

The previous drought had terrible consequences for North Dakota businesses that were built upon recreation on the Missouri River. It has taken a decade for our people to recover from that disaster. Uncertainty caused by the Corps' management during drought has impeded capital investment, and development for new and existing businesses that would build upon the Missouri River's marvelous potential. If we are to sustain the recreation industry, we must incorporate conservation measures that stabilize reservoir levels during drought.

We know the hardships of drought cannot be entirely avoided. However, those hardships should not be aggravated by sacrificing the interests of all others to float a handful of barges in the lower Missouri. This is not wise management. It is not responsible management, and it is not fair management. The pain of drought must be shared equitably.

In conclusion, I urge the Corps to adhere to its current schedule for completing the Master Manual revision process. The time for equitable distribution of the benefits of Missouri River and equitable sharing of water shortages is now.

There is no question that any of the five proposed alternatives is marked improvement over the current water control plan. The results of the economic and environmental studies clearly illustrate how the Missouri River and the reservoirs can be better managed to benefit us, our children and the entire Missouri River Basin. If we manage these resources intelligently, realization of their potential can benefit all. On behalf of the people of North Dakota, and the Missouri River Basin, I submit it is time for change on the Missouri River.

Sincerely,



John Hoeven
Governor

38:04:49

**U.S. Fish and Wildlife Service
Public Comments
Missouri River Master Manual Hearing
Bismarck, North Dakota, October 23, 2001**

Good evening, my name is Allyn Sapa and I'm here this evening on behalf of the U.S. Fish and Wildlife Service to issue a brief statement on the Revised Draft Environmental Impact Statement for the Missouri River Master Water Control Manual. I'm also here to listen to the comments in person from citizens on this important issue.

The Service has primary authority for oversight of our nation's rarest animals under the Endangered Species Act. The Missouri River is home to the endangered pallid sturgeon and least tern, and the threatened piping plover. The decline of these species tells us that the river is not healthy for its native fish and wildlife, and that there needs to be a change in its management to restore the Missouri to a more naturally functioning river system. A healthy river provides wildlife habitat, supports fishing, and makes boating an attractive recreational activity.

Congress committed the Federal Government to preventing extinctions by requiring Federal agencies to use their authorities to conserve endangered and threatened species. During the last 12 years our agency has been working with the U. S. Army Corps of Engineers to modernize the management of the Missouri River to help stabilize and hopefully, begin to increase and recover populations of these vary rare animals. This

new approach was described recently in a document called the “Missouri River Biological Opinion,” published in November 2000.

The biological opinion looks at the river as a system and outlines the status of these rare species, the effects of the current operation on them, and a reasonable and prudent alternative to the current operation that will not jeopardize their continued existence.

Our biological opinion is based on the best available science and includes nearly 500 scientific references. In addition, we’ve sought out 6 respected scientists – “big river specialists” – who confirmed the need to address flow management, as well as habitat restoration. Further, the Missouri River Natural Resources Committee, a group comprised of the state experts on Missouri River management, endorses the science in the opinion.

If you have read the RDEIS or summary document, you understand that the “GP alternatives” encompass the range of flows identified by the Service as necessary below Gavin’s Point Dam to keep the listed species from being jeopardized. Our agency, and the Corps, also recognized the importance of some flexibility in management that would enable Missouri River managers to capitalize on existing water conditions to meet endangered species objectives without having to go through another 12-year process.

Other management changes identified in the biological opinion include a “spring rise” out

of Fort Peck Dam, an improved hatchery operation to assist declining pallid sturgeon populations, restoration of approximately 20% of the lost aquatic habitat in the lowest 1/3 of the river, intrasystem unbalancing of the three largest reservoirs, and acceptance of an adaptive management framework that would include improved overall monitoring of the river.

In closing, the Service supports the identified goal of the revised master manual - to manage the river to serve the contemporary needs of the Missouri River Basin and Nation. These needs include taking steps to ensure that threatened and endangered species are protected while maintaining many other socioeconomic benefits being provided by the operation of the Missouri River dams. The Service stands behind the science used in the opinion, and is confident that the operational changes identified in our opinion, and included in the RDEIS as GP alternatives will ensure that these rare species continue to be a part of the Missouri River's living wildlife legacy.

The Missouri River is a tremendous river, with a significant and revered heritage. Our influence has altered the river greatly. Changes are needed to modernize and restore health to the river – for the benefit of rare species and for people, too.

TESTIMONY PRESENTED TO THE US ARMY CORPS OF ENGINEERS
PUBLIC HEARING OF THE MISSOURI RIVER MASTER MANUAL REVIEW;
OCT. 23, 2001

Gentlemen,

Welcome to Bismarck, North Dakota for this public meeting on the Revised Draft Environmental Impact Statement. My name is Ken Royse and I currently have the opportunity to serve on the Burleigh County Water Resource Board. Our County Water Resource Board is authorized by State Law to provide a vehicle for local grass roots management and development of our water resources. And in Burleigh County, as in the whole of North Dakota, there is no greater single water resource, nor any single natural resource, which has a greater impact on our lives and our economy and on our present standard of living and our future than the Missouri River.

In recent years our Board has taken a wider interest in the Missouri River. We are still concerned with the ever increasing volumes of sediment which are continually and constantly deposited, day by day and hour by hour, in our River. And we still believe that permitting and access to this River, functions controlled to a very large extent by the Corp, are cumbersome and burdensome and are processes which desperately need streamlining. But we now also have concerns which reflect a greater awareness of the value of the River to economic and recreational needs of our community and our State.

It is primarily the issues of economics and recreation which I want to offer testimony on today.

Our economy in North Dakota is based primarily on agriculture. We are a dry land farming State. There have been any number of studies which project a vast increase in economic benefits to lands and areas along the Missouri River if water can be accessed from that River for irrigation purposes. But in order for that to occur, the small farmers and the larger irrigation projects need assurance that there will be adequate levels and flows in the River. Neither a small farmer nor a large district can commit to expensive infrastructure---- intakes and pumps---- unless there is some assurance of a level within the River to construct those facilities.

In addition to agriculture, the State relies on tourism and recreation for economic stability. Fisherman from all over the nation come to our State to try their luck in our Missouri River, boaters and water-skiers flock to our River for the beauty and serenity it offers, and our citizens of all ages enjoy swimming and sunbathing along the many sandbars and beaches. To a large extent, economic stability and economic opportunity in North Dakota is tied directly to water levels in the River and in the Garrison and Oahe dams.

I understand the desire of our downstream neighbors to utilize water from this River for their needs in a fashion most advantageous to them and their barge traffic economy. In wet years, when there is too much water, we are asked to hold that water---not to release

too fast--- not to increase flooding damages downstream. We are asked to do that even to our own detriment in the interests of our downstream neighbors.

And in the dry years, those same parties have no qualms of asking us for greater releases from the dams and out of the River. They ask this even though they are well aware of that such greater releases mean economic losses to our State to the extent of many millions of dollars.

The message I want to give the Corps in this testimony is simply that Burleigh County and North Dakota needs water in our upstream reservoirs. We need adequate reservoir levels for economic stability, we need it for our agricultural needs, we need it for our recreational needs. We need it for domestic and industrial development, we need it for power generation. We need our upstream water to maintain a healthy environment for riparian wildlife and for our fish populations. In contrast our downstream neighbors want low flows in times of flooding and higher flows in times of drought when it benefits them. They want to continue to have the river managed for navigation which equates to a huge Federal subsidy of their barge industry.

Thank you for the opportunity to provide these comments. I hope that while you are in Bismarck you will have the time to make a visit to our Missouri River. If you make that visit you will see damages caused by low river levels including erosion, land loss, and deposits of sediments.

STATEMENT TO CORPS OF ENGINEERS HEARING

**RE: MISSOURI RIVER MASTER MANUAL
BISMARCK, ND, OCTOBER 23, 2001
ANDY MORK, CHAIRMAN, BOMMM JOINT BOARD**

BOMMM is a Joint Water Resource Board authorized by North Dakota law. It is composed of the five counties adjacent to the Missouri River on the Garrison Dam to Lake Oahe reach. Its sole purpose was and is to protect and preserve the riparian land in this reach.

While we are primarily concerned with our immediate area, we know we are affected by the overall operation of the five main stem dams. We, therefore, offer the following comments on the proposed Master Water Control Mail options as stated in the August 2001 Revised Draft.

- 1. It is obvious that the Corps no longer controls the river for the greatest benefit to navigation, flood control, hydropower, water supply and recreation. It is now dictated by the Endangered Species Act through the Fish and Wildlife Service to prioritize the endangered species above all other purposes. There apparently are no benefit/cost requirements and the resulting huge costs above benefits are obvious. Some of the dollar costs are:**
 - a. Loss of hydro revenue by forcing high spring generation when power is less valuable.**
 - b. Loss to the navigation industry and to those it serves by curtailed navigation.**
 - c. Downstream flooding losses.**
 - d. Loss of hydro revenue at Ft. Peck by “dumping” 11,500 cfs over the top of the dam for six weeks.**

Also of great concern are:

- 1. Increased bank erosion in the Garrison to Oahe reach during the high Oahe years.**
- 2. Increased bank erosion below Ft. Peck due to the 23⁺ cfs releases for six weeks.**

3. **Low Garrison to Oahe river level problems in the high Sakakawea years (such as we experienced in the summer of 2001 due to drought).**

The statement on page 27 of the August 2001 Revised Draft that “bank erosion is a function of the total volume of water and not the distribution of that volume” is entirely false. I have conferred with several civil engineers and they agreed that the statement is incorrect or want to know more of how the Corps arrived at such a statement.

The fact is that bank erosion is an exponential function of the rate of water flows. For example, twice the flows can cause four times the erosion. Therefore, it is very important how water releases are made to reduce the bank erosion and the subsequent downstream delta such as the one now forming at Bismarck.

BOMMM strongly supports the 1825’ minimum Sakakawea Lake level. Since recreation has become so important and since North Dakota gave more than any other state so the Pick-Sloan Project could be built, we are entitled to that!

Until the Garrison to Oahe banks are ~~fully~~ protected we strongly object to the unbalanced dam level scheme due to the increased bank erosion during the high river level years. We also oppose the high Ft. Peck spring releases until those downstream banks are protected.

in the necessary locations

BOMMM does support the preservation of the endangered species when it can be accomplished in concert with the other purposes of the Project, but we do not believe they should have priority over all other uses and, certainly they should not be immune to benefit/cost evaluation.

**FINANCIAL STATEMENT OF CORPS
PROPOSAL FOR MASTER MANUAL**

1. **Loss of recreation, water supply value during low flows
of Garrison to Oahe Reach** \$_____.
2. **Loss of hydro revenue due to Gavins Point spring
releases when hydro power is less valuable** \$_____.
3. **Loss of revenue by the reduced navigation channel
and those it serves** \$_____.
4. **Estimated downstream flooding losses** \$_____.
5. **Loss of Hydro revenue due to "dumping 11,500 cfs
at Ft. Peck for six weeks** \$_____.
6. **Value of increased bank erosion below Ft. Peck due
to high (23,500 cfs) releases** \$_____.

Total Revenue losses \$_____



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I am speaking to you not only as a conservationist, but also as a person who has spent countless days enjoying the Missouri River in North Dakota. On any given summer day in North Dakota, you can find many people enjoying an afternoon on a sandbar. I feel very fortunate that we live near a stretch of the Missouri River that has not been channelized and still contains sandbars. The river is capable of taking care of itself if we allow it to flow in the most natural way possible.

I am very disappointed that the Army Corps has decided not to endorse the recommendations of the US Fish and Wildlife Service as the preferred alternative to the master manual. The needs of an almost nonexistent barge industry are not nearly as important as the needs of fish, wildlife and people, all who use and depend on the Missouri River. However, I am pleased that the US Fish and Wildlife Service recommends a change from the current master manual and that the Army Corps of Engineers is releasing alternatives.

The current water control manual places the interests of the barge industry over the needs of fish, wildlife and people. This outdated master manual is jeopardizing the survival of the endangered pallid sturgeon, the endangered least tern and the threatened piping plover by providing a near steady flow to support barge traffic downstream rather than allowing the seasonal rise and fall of the river. A more natural hydrograph needs to be reinstated.

Of the ^{six} ~~five~~ alternatives, only the GP2021 "Flexible Flow" alternative fully encompasses the flow recommendations in the Final Biological Opinion of the Fish and Wildlife Service.

According to the Corps' analysis, the "Flexible Flow alternative" option provides substantial fish and wildlife benefits in comparison to the current water control plan and the other alternatives identified in the RDEIS. It does not impact other uses of the river like floodplain farming, hydropower, ~~navigation~~ or flood control.

The river depends on changes in flow to complete the natural seasonal cycle that occurred before the dams were constructed. A split navigation season may not be a fix all solution to the restoration and recovery of the Missouri River but it is a very important first step. Opposing a river that flows in a more natural manner contradicts with our goals of conservation. We support the extensive study and recommendations of the US Fish and Wildlife Service.

The barge industry claims that you don't have to radically alter the flow of the river to create wildlife habitat. First of all, the river has already been radically altered to provide a steady flow of water to support the barge industry. Managing the river using the recommendations of the US Fish and Wildlife Service should not be considered a radical alteration since it brings us closer to living with a more natural river.

One option that I read about in the Omaha World Herald for restoring piping plover and least turn habitat below Gavins Point dam was to build sandbars. The idea of building man-made sandbars rather than allowing the river to create them naturally is disturbing. A natural sandbar is like a beautiful piece of sculptured art and the dynamics of a healthy sandbar are really quite complicated. Areas that do not have sandbars on the Missouri River should feel deprived. They provide a place to explore wind-swept sand dunes and wetland areas, all teeming with life.

We have nearly engineered the Missouri River to death. It seems that when we encounter an engineering problem, we want to fix it with another engineering project. We can help let nature take its course if we allow the river to flow more naturally.

The expense of maintaining the Missouri River to accommodate an insignificant amount of barge traffic does not justify the financial benefits that the barge industry generates. The barge industry is heavily subsidized and they do not mention this when they compare the costs of shipping on the river with other forms of freight. The expense of maintaining our river for this relatively small industry and the environmental cost of managing the Missouri River mainly for navigation are very high costs to all of us.

The needs of upstream states like North Dakota have been ignored for too long. It is time to update the master manual for the Missouri River. Please select the GP2021 "flexible flow" alternative, over the current water control manual.

Jonathan Bry