

United States Senate

WASHINGTON, DC 20510

September 29, 2014

Mr. Daniel M. Ashe
Director
U.S. Fish and Wildlife Service
1849 C Street, NW
Washington, DC 20240

Lieutenant General Thomas P. Bostick
U.S. Army Chief of Engineers and Command General
U.S. Army Corps of Engineers
441 G Street, NW
Washington, DC 20226

Dear Director Ashe and Lieutenant General Bostick:

We write to express concern about actions taken in the name of enforcing the Endangered Species Act that have impacted the livelihoods and security of Nebraskans living along the banks of the Missouri River.

As you are aware, the Biological Opinion issued by Fish and Wildlife Service (FWS) in 2000 and amended in 2003 found the operation of the Missouri River Main Stem Reservoir System by the U.S. Army Corps of Engineers jeopardized the endangered pallid sturgeon, least tern, and piping plover and offered alternative measures to protect the species. One of the alternatives identified by FWS was habitat restoration, creation, and acquisition.

This alternative requires the creation of 20-30 acres per mile of shallow water habitat and 80 acres per mile of emergent sandbar habitat. Thousands of acres of habitat have already been constructed. Some of it was damaged in the 2011 flood and now has to be reconstructed. Many more millions of dollars remain to be spent on these projects to bring the river into compliance with FWS's Biological Opinion, and the Corps appears to be forging ahead.

However, while the Corps proceeds with habitat construction, our understanding of the effectiveness of these projects has also progressed. Specifically, the Missouri River Recovery Implementation Committee commissioned a report by its Independent Science Advisory Panel to assess the effectiveness of these measures. This panel of scientific experts cast doubt on the hypothesis of the plan—that these habitat measures would reverse decline of sturgeon, tern, and plover caused by the Bank Stabilization and Navigation Act—as demonstrated in this excerpt:

“From current information it is unclear whether or how habitat construction can contribute to the recovery of pallid sturgeon. Recovery of pallid sturgeon in the Missouri

River ultimately may be independent of habitat construction efforts, and may instead depend on successful recruitment below the Missouri and Mississippi rivers confluence, but this is an area of substantial uncertainty. Enhanced population numbers of piping plovers and least terns that may derive from habitat restoration and construction efforts below Gavins Point Dam have unknown implications for the status, trends, and recovery of piping plover across its broader range in the northern Great Plains, or least tern across the interior of North America.”¹

To summarize, the projects may not be contributing to species recovery. And if that is the case, why is the Corps forging ahead with land purchases and habitat construction? Has empirical research been conducted since this report was published that demonstrates the positive impact of habitat construction on species recovery?

We do not believe that the costs and scale of federal acquisitions along the Missouri River can be justified when the scientific evidence of their efficacy in preserving these species seems to be hypothetical. We urge you to cease burning through taxpayer dollars acquiring land and constructing habitat until evidence demonstrates that these projects are actually effective in species restoration. Indeed, even then it is doubtful that the benefit of recovering plover, tern, and sturgeon populations outweighs the very real human and economic costs of restoring the river to its original hydrological patterns.

The Water Resources Reform and Development Act of 2014 Section 4003(e) requires a report to Congress accompanying the budget describing activities related to the mitigation of fish and wildlife losses. We request that this report include a description of the specific benefits expected from each proposed shallow water habitat construction project for which funds are requested and an analysis of changes in flood risks that result from habitat construction, including through notching, chutes, and any other features that may increase this risk. Residents of Nebraska’s river communities deserve to know the impacts of these projects.

Sincerely,



Mike Johanns
United States Senator



Deb Fischer
United States Senator

¹ Missouri River Recovery Program Independent Science Advisory Panel - Final Report on Spring Pulses and Adaptive Management, November 30, 2011, p. 3.