

STATE OF NEBRASKA
Office of the Attorney General

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JON BRUNING
ATTORNEY GENERAL

June 29, 2011

Hon. Jo-Ellen Darcy
Assistant Secretary of the Army (Civil Works)
Office of the Assistant Secretary of the Army (Civil Works)
108 Army Pentagon
Washington, DC 20310-0108

RE: Ongoing Flooding Along the Missouri River

Dear Assistant Secretary Darcy:

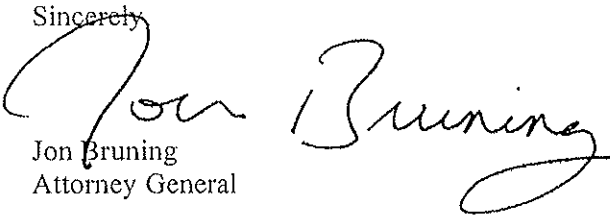
The State of Nebraska has a critical interest in the Army Corps of Engineers' Missouri River reservoir operations. As you will certainly recall, Nebraska was the primary force in stopping attempts by the U.S. Fish & Wildlife Service, environmental groups and upstream states from modifying the old Master Manual to artificially allow flooding to occur for endangered species and recreational interests on a regular basis. When environmental groups and upstream states filed multiple lawsuits to weaken flood control protections, my office fought long and hard to ensure that the dominant purpose of flood control and the resulting protection of the public were not abandoned by the Corps or the rest of the federal government. The federal courts agreed with Nebraska that flood control trumped all other purposes and that the Corps must observe the paramount status of flood control at all times when conducting its operations.

The current flooding along the river leads many to believe that earlier this spring flood control was not the primary focus of the Corps. Nebraska, like all of its neighboring states in the Basin, now faces unprecedented flooding throughout the Missouri River corridor. Untold acres of valuable farmland are inundated, cities' critical water and sewage resources and important infrastructure, including nuclear power facilities, are threatened by rising waters. Consequently, we are concerned that despite existing court orders and the Corps assurances, we have seen flooding beyond that allowed under the current law of the river. In short, it would appear that the Corps has either acted contrary to law or that something in the Corps' flood control plans this spring was terribly flawed.

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Given the severity of the flooding experienced to date, and the lack of any foreseeable relief in the immediate future, the citizens of Nebraska are entitled to an explanation. Specifically, the Corps needs to explain why flood control operations this year have not been consistent with the Master Manual and the courts' clear expression of the paramount role that flood control must play. I appreciate and look forward to your prompt response.

Sincerely

A handwritten signature in cursive script that reads "Jon Bruning". The signature is written in dark ink and is positioned to the right of the typed name and title.

Jon Bruning
Attorney General

cc: Col. Robert J. Ruch