



DEPARTMENT OF THE ARMY
KANSAS CITY DISTRICT, CORPS OF ENGINEERS
635 FEDERAL BUILDING
601 E. 12TH STREET
KANSAS CITY MISSOURI 64106-2824

REPLY TO
ATTENTION OF

Office of Counsel

Mr. Tracy Streeter
Director, Kansas Water Office
901 S. Kansas Avenue
Topeka, KS 66612

Dear Mr. Streeter:

This is in response to your request for information regarding the operation and allocation of water storage at Tuttle Creek and Milford Lakes.

Tuttle Creek Lake Project and Milford Lake Project were authorized by Congress in the Flood Control Acts of 1938 and 1954, respectively. The Corps operates these lakes as part of the Kansas and Missouri River Basin systems for multiple Congressionally-authorized purposes including navigation support, flood control, water supply, fish and wildlife and water quality. The multipurpose or conservation storage in these lakes serves to provide for authorized minimum releases to the downstream river system for the beneficial purposes of water quality and fish and wildlife. Each lake has formal allocations of storage volume for the purpose of water supply which are operated in concert with the state to meet the needs of users in the water marketing program.

Milford Lake has 300,000 acre-feet of total water supply storage allocated. The volume of 101,650 acre-feet has been purchased and is currently in use by the State, whereas 198,350 acre-feet designated as "future use" is not being used. The State has the ability to pay for and call it into service at a future date. As long as the future use increment of water storage is not called into service, that storage remains available for federally defined beneficial purposes within the lake until it is released in accordance with Lake Regulation Manual. Releases from the multipurpose pool are made only for authorized beneficial purposes, to include water supply, navigation support, water quality, and fish and wildlife. If the State was to call that storage into service and pay the cost, storage would not longer be available at the lake for navigation releases. In 2011, the Corps estimated the cost of the future use storage at approximately \$21,400,000.

At Tuttle Creek Lake, there is 50,000 acre-feet of water supply storage that is in service with the State. There is 72,000 acre-feet of storage in the multipurpose pool formally allocated for downstream releases for general uses including water quality and navigation that will remain available.

The Corps' operations at Milford Lake and Tuttle Creek Lake are within established authorities. Neither the Republican River Compact or the Blue River Compact supercede or change the Congressional authorizations for the projects or framework described above. Each of

the relevant compacts contains language that confirms the intent to not affect any right or authorization of the United States. From the Republican River Compact (Article X, (a)):

“Nothing in this compact shall be deemed to impair or affect any rights, powers or jurisdiction of the United States, or those acting by or under its authority, in, over, and to the waters of the Basin;...”

From the Blue River Compact (Article VII.2 (1)):

“Nothing contained in this compact shall be deemed to impair, extend, or otherwise affect any right or power of the United States, its agencies, or its instrumentalities involved herein.”

The Corps engages compact parties when potential conflicts are identified by the parties. Through that engagement, the Corps gives due consideration to the objectives of the compact, and after consultation with all interested federal agencies and the state officials that are responsible for the administration of compact, acts in the interest of the best utilization of project waters for multiple purposes.

Please call me at 816-389-3983 with any questions regarding this matter.

Sincerely,



Matthew P. Jeppson
Assistant District Counsel

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Rude*

November 23, 2011

Brigadier General John R. McMahon
Commander, Northwestern Division
US Army Corps of Engineers
PO Box 2870
Portland, OR 97208-2870

Dear General McMahon,

The state of Kansas offers this letter as input on the draft Missouri River Mainstem System 2011-2012 Annual Operating Plan.

Flood control must be treated as a priority for the 2012 runoff season while our local flood control infrastructure remains vulnerable. Kansas was one of the seven Missouri Basin States that sent a letter August 19 stating there is clear consensus flood control must be the highest priority in the operation of the system. Kansas has also expressed support of the proposal by North Dakota State Engineer Todd Sando to evacuate additional storage in Lake Sakakawea this fall.

While we first welcomed the announcement November 4 that the Corps would be more aggressive and flexible in regards to evacuating water from the system through the remainder of the fall and early winter, it now appears however, that previously announced release schedules and the target of 16.3 MAF of storage has not changed. This is disheartening and unacceptable.

The basin has been experiencing high runoff since 2008 and many levees are still in disrepair. As a result, additional flood storage should be made available this year to mitigate the lack of flood protection in the lower basin. Does the USACE have operational flexibility to vary the flood control storage level to account for a wet cycle?

The AOP included five inflow scenarios simulations using the 1898 – 2006 historical period to derive inflows. Updating the period of record to include the years up to 2011 may catch some of the wet cycle which began in 2008 and would modify the projections.

In addition, the AOP should include a runoff scenario beyond the upper decile, perhaps at the one or two percent level. It is at these highest flow levels where the greatest damages occur.

Improved runoff forecasting is needed and we agree with suggestions to consider additional snow measurements and stream gages as potential means to improve that forecasting.

The Corps also announced on November 4 that direct communication throughout the winter and spring would improve. While daily phone conferences were held throughout the event last

summer and early fall, direct communication with emergency managers and levee operators, as well as state and local officials, needs to improve.

While the River experienced record flooding, 2011 will also be remembered in Kansas for its continued and expanding drought conditions. Even though the northeast corner of our state is not dire currently, drought conditions continue to migrate north and east. Combined with the potential aggravation of channel degradation that may have occurred with the flooding, additional flow may be required in the winter to support intake operations for water and power.

The draft AOP projects full service, full season navigation. In the past, the Corps has made releases from Kansas River tributary reservoirs (Milford, Perry and Tuttle Creek) to meet target navigation flows. The risk to water supply and economic impacts associated with lost recreation outweigh the minimal benefits to navigation supplementation, especially during a time when severe drought is spreading across Kansas. We respectfully request that navigation releases from Perry, Tuttle Creek and Milford be minimized in 2012.

We appreciate the opportunity to comment on the Draft AOP.

Sincerely,

A handwritten signature in black ink that reads "Sam Brownback". The signature is written in a cursive style with a large, sweeping initial "S".

Sam Brownback
Governor of Kansas

July 25, 2012

Jody Farhat, Chief
Missouri River Water Management Division
215 North 17th Street
Omaha, NE 68102-4978

Dear Ms. Farhat:

Recently, the Corps of Engineers began releases from Kansas River tributary reservoirs to support navigation flows on the Missouri River. I am writing to express my concern about this action and ask that you discontinue navigation support from these reservoirs.

I recently issued an executive order updating the drought status of all 105 Kansas Counties to drought emergency. Long term forecasts from our state climatologist and the National Weather Service Climate Prediction Center indicate that the current drought will persist and worsen. Our efforts must now bet to conserve water where possible to insure we have an adequate supply to meet needs during this continuing drought.


Inflow into the three reservoirs being used for navigation support, Milford, Tuttle Creek and Perry, are below 10 of the mean flow for this time of year. At the current time, in total, 215 cfs is coming into these three lakes and 3,800 cfs is being released. Roughly 800,000 acre-feet of water is left in these reservoirs for all uses. At the current rate of release, these reservoirs will be down three feet by the end of the first week in August, and little will have been gained.

By contrast, the Missouri River mainstem reservoirs appear to be in much better shape. Five of the six reservoirs currently have some water in the flood control pool. In fact, the water in mainstem reservoir flood pools (910,000 acre-feet) is greater than all water in Milford, Tuttle Creek and Perry reservoirs combined. Draining water from conservation storage in Kansas, during a drought, while water sits in flood storage elsewhere seems questionable at best.

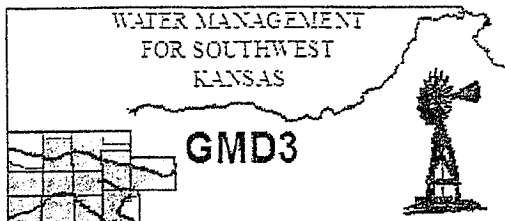
We recognize that management of the Missouri River and its' reservoir system is not simply or easy. But the current approach, and Kansas River tributary reservoir releases, seems to defy common sense. Again, I request that navigation releases from Milford, Tuttle Creek and Perry reservoirs be discontinued.

If you have any questions, please feel free to contact me or Kansas Water Office Director, Tracy Streeter.

Sincerely,



Sam Brownback
Governor



Southwest Kansas
Groundwater Management District No. 3
2009 E. Spruce Street
Garden City, Kansas 67846
(620) 275-7147 phone (620) 275-1431 fax
www.gmd3.org

November 13, 2013

U.S. Army Corps of Engineers, Northwestern Division
Attn: Missouri River Water Management
1616 Capitol Ave, Suite 365
Omaha, NE 68102RE:

Comments: Draft 2013-1014 AOP,
Missouri River Mainstem System

Dear Sir or Madam:

Thank you for this opportunity to provide public comment. This letter provides comments from the Southwest Kansas Groundwater Management District No. 3 (GMD3) regarding the proposed Missouri River Mainstem System Draft 2013-2014 Annual Operating Plan (Draft Plan).

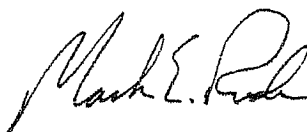
The Draft Plan recognizes some key federal laws that must be considered in the U.S. Army Corps of Engineers (Corps) strategies to operate the Mainstem system next year. However, the Draft Plan includes potential use of Kansas tributary water from Milford and Tuttle Creek Reservoirs that reside in tributary basins where all water has been allocated to states by federal interstate compact laws. These public laws are not considered in the Corps 2006 Missouri River Master Water Control Manual (Master Manual) and are not considered in the Draft Plan. Accordingly, the Draft Plan mistakenly contemplates the use of waters dedicated to "beneficial consumptive use in Kansas" as available for Corps discretionary delivery and use outside of Kansas, which is inconsistent with federal purposes for waters in those tributary basins. Additionally, ER 1110-2-240 addresses this public input letter when it states, "Water control plans will be developed in concert with all basin interests which are or could be impacted by or have an influence on project regulation." Therefore, please consider that the Draft Plan and all relevant governing Corps plans and agreements should be revised for consistency with the dedications of the Republican River compact and the Big Blue River compact public laws.

In providing these comments, we have considered the following:

- 1) The Corps has authority to use a discretionary method of operating the dams under The Flood Control Act of 1944 (1944 Act) consistent with the purposes stated by Congress.
- 2) The 1944 Act does not mandate a particular level of river flow or length of navigation season, but rather allows the Corps to decide how best to support the primary interest of navigation in balance with other interests.

- 3) Where Interstate compact public laws exist that allocate all of the waters of specific tributary basins to specific states, the discretion of the Corps to use a portion of any state allocation is restricted with special considerations. The Corps has an obligation to uphold the purposes of congressional water allocations to named states in its discretionary methods of accomplishing its job under the 1944 Act.
- 4) Congress did not allocate any waters of the Republican and Big Blue River basins to federal agencies in preserving the general authorities of federal agencies under those compact public laws.
- 5) Discretionary operations of Milford and Tuttle Creek Reservoirs should occur in concert with the dedications and purposes of federal compact laws and in close coordination with compact member state officials to insure the purposes of the waters of those specific basin allocations are used as Congress and member states intended.
- 6) Discretionary actions for use of tributary basin waters from Milford and Tuttle Creek Reservoirs outside of Kansas by the Corps without complete agreement from Kansas officials, as occurred in 2012 when all Kansas counties were in emergency drought declaration and Mainstem reservoirs were in flood control storage and Governor Brownback sent the July 25, 2012 letter objecting to such Corps operations, is intolerable.
- 7) Planning for a repeat of such ill-conceived operations of Milford and Tuttle Creek Reservoirs after receiving this notice of deficient consideration of key public laws may be reprehensible.

Sincerely,



Mark E. Rude
Executive Director

pc: Governor Sam Brownback
Chairman Gary Harshberger, Kansas Water Authority
Tracy Streeter, Director, Kansas Water Office
Robin Jenison, Kansas Department of Wildlife, Parks and Tourism
David Barfield, Chief Engineer, KDA/Division of Water Resources
Chairman Garrett Love, Senate Committee on Agriculture
Chairman Larry Powell, Senate Committee on Natural Resources
Chairman Ralph Ostmeyer, Senate Committee on Federal and State Affairs
Chairwoman Sharon Schwartz, House Committee on Agriculture and Natural Resources