

May 1, 2020

Matt Shively
Regulatory Project Manager
U.S. Army Corps of Engineers
Kansas City Regulatory Office
matthew.s.shively@usace.army.mil

Re: Public notice concerning the proposed reissuance of commercial dredging permits on the Lower Missouri River

Mr. Matt Shively:

The Kansas Water Authority (KWA) appreciates the opportunity to comment on the current public notice concerning the proposed reissuance of commercial dredging permits on the Lower Missouri River, as well as the concurrent Section 408 process ongoing to evaluate the cumulative impacts of these proposed activities, prior to a decision on permit reissuance. Established in 1981 by the Kansas Legislature, the KWA is responsible for advising the Governor, Legislature and Director of the Kansas Water Office on water policy issues and for approving the Kansas Water Plan, federal contracts, administration regulations and proposed legislation.

The KWA recognizes that the opportunity for the general public, agencies, groups and organizations to comment on projects which impact the water and natural resources of Kansas is key to evaluating how the public at large would be served by a particular project, policy or rule. In order to make informed decisions regarding the potential impact of any proposed project, a complete set of information and data must be in place and accessible for all to make individual or collective decisions on the merits of any proposal.

The Kansas Water Authority respectfully requests that the process to decide whether to renew dredging permits on the Missouri River should not proceed forward, nor should a record of decision on a Section 408 be issued, until after the results of the 2019 hydrographic survey are made publicly available and adequate time is provided following the release of this information for public comments to be submitted. If the permit renewal and concurrent Section 408 process is allowed to proceed, the Kansas Water Authority believes that new or renewed permits for dredging within the Kansas City Reach of the Lower Missouri River should not be issued for reasons highlighted within this letter. It is also the opinion of the KWA that any Section 408 record of decision should be complete and accounted for prior to any final determination taking place regarding the proposed reissuance of the commercial dredging permits. Moreover, the KWA requests the Corps of Engineers allow adequate time to submit public comments after the Section 408 record of decision is issued and before a decision is made on the request to renew the dredging permits. Of particular concern is the need for adequate time to evaluate and comment on current and additional degradation impacts to the Kansas City Reach to ensure that both the Section 408 and National Environmental Policy Act (NEPA) processes are being complied with. In the potential

Section 408 analysis, as verbally described by the U.S. Army Corps of Engineers during their webinar on April 21, 2020, it was noted that prevention of any additional degradation would be necessary to prevent impacts to the Bank Stabilization & Navigation Project (BSNP) and the Missouri River Recovery Program (MRRP) federal projects.

The following information provides additional context regarding the concerns of the permit renewal process advancing before a Section 408 record of decision has been issued:

Current Degradation Quantification

During the webinar hosted by the U.S. Army Corps of Engineers, Kansas City District on April 21, 2020, Corps representatives presented information regarding both the proposed permit renewals as well as the Section 408 process which is concurrently ongoing during this current public comment period. The Corps representatives also presented information during this webinar on the degradation thresholds identified specifically within the Kansas City Reach, as well as all other reaches of the Lower Missouri River for Section 408 purposes (Attachment 1, Figure 1). Corps representatives also mentioned during this same webinar that preliminary 408 technical analyses indicate likely impacts to federal projects if degradation exceeds identified thresholds, but results of the 2019 hydrographic surveys are not yet fully analyzed (Attachment 1, Figure 2). Until it is fully known whether or not additional degradation has taken place within the Kansas City Reach of the Lower Missouri River, it is the opinion of the Kansas Water Authority that a final decision on the proposed permit modifications and concurrent Section 408 process should not take place.

Section 408 Cumulative Impacts

According to information presented during the April online session, the Corps noted the current Section 408 permit evaluation process will use a 2009 baseline period for degradation comparison purposes. However, during that same session, it was shown that prior Corps documentation established a relevant period of record for hydrographic survey data for the Lower Missouri River prior to the noted 2009 baseline period (Attachment 1, Figures 3 and 4). Within this data there is verification of degradation within the Lower Missouri River and Kansas City Reach prior to 2009. Indeed, the Missouri River Bed Degradation Feasibility Study Technical Report (May 2017), in finding dredging operations contributed to river bed degradation, based its analysis on the period 1990 through 2009. The Kansas Water Authority questions the basis for establishing 2009 as the beginning of the baseline period for determining degradation within the Lower Missouri River and how the more extensive history of degradation is accounted for when evaluating cumulative short and long-term impacts within a Section 408 process.

Economic Impacts of Missouri River Degradation

Information presented by the U.S. Army Corps of Engineers, Kansas City District in the past has also shown that continued degradation within the Lower Missouri River could lead to \$800 million or more in damages or negative impacts to public infrastructure (Attachment 1, Figure 5). These impacts to infrastructure include public water supply intakes within the Kansas City Reach of the Lower Missouri River. Also of note would be the potential economic impacts to the BSNP and MRRP federal projects should damages occur as degradation thresholds are met or exceeded. This study predated the May 2017 technical report. Without the 2019 hydrographic bed survey in final form, the more current impacts of dredging are not yet known. Yet, this information is critically relevant to whether or not continued (or increased) dredging would lead to even harsher public infrastructure costs. Because the 408 process requires consideration of the public infrastructure costs, which could be \$800 million based on older information linking dredging to degradation in the Lower Missouri River, it would be premature for the Corps to take a position in favor of permit reissuance and continued dredging operations until the 2019 hydrographic bed survey is completed.

The KWA would also like clarification from U.S. Army Corps of Engineers, Kansas City District staff regarding the mitigation requirements associated with in-channel dredging operations. It is our understanding that in-channel dredging operations have no mitigation requirements associated with operations while off-channel pit operations do have associated mitigation requirements. Thus, in-channel dredging operators, such as those who seek permit renewal here, would be absolved of mitigation responsibilities while causing the financial burden for mitigation to be borne by other entities, especially those responsible for public infrastructure.

In closing, based on the information discussed above, the Kansas Water Authority respectfully requests that the U.S. Army Corps of Engineers, Kansas City District Commander and District Engineer Col. William Hannan, Jr. and District staff consider the following proposed actions:

- Corps of Engineers issue a record of decision (ROD) on Section 408 process before decisions be made on proposed permit renewals;
- Prior to issuing a Record of Decision on the Section 408 permit and prior to issuing a decision on the applications for renewal of dredging permits on the Lower Missouri River, the Corps complete the 2019 hydrographic survey and notify the public of availability of the results of that survey, and allow adequate opportunity for public comment on said survey, so that the Corps and the public will be able to use the most current information to resolve both permitting decisions.
- Provide adequate opportunity for public comment on the Record of Decision for the Section 408 permit prior to the Corps' decision on the dredging permit renewal applications.
- In the absence of information contained in the 2019 hydrographic bed survey, or elsewhere, that substantially counters the findings of the May 2017 report, the Corps deny permits for new or renewed dredging operations within the Kansas City Reach of the Lower Missouri River.

Thank you for your consideration of our comments and please feel free to contact me at Connie.Owen.KWA@kwo.ks.gov should you or members of your staff have any questions or informational needs regarding the above-mentioned feedback provided on behalf of the Kansas Water Authority.

Sincerely,



Connie Owen
Chair, Kansas Water Authority

cc: Col. William Hannan, Jr., USACE, KC District
Senator Jerry Moran
Senator Pat Roberts
Representative Sharice Davids
Representative Ron Estes
Representative Roger Marshall
Representative Steve Watkins

ATTACHMENT 1

42

DEGRADATION THRESHOLDS

Results of analyses indicate that degradation thresholds similar to those identified in the EIS are needed to prevent impact to the federal projects

- Identified Thresholds
 - Any degradation in Kansas City Reach
 - 2 feet of degradation all other reaches
- Relative to 2009 baseline
- Mirrors current regulatory constraints
- Accounts for currently degraded state of Kansas City Reach

Figure 1. Section 408 degradation thresholds, 4/21/2020 webinar.

44

PRELIMINARY RESULTS

- 408 technical analyses indicate likely impacts to federal projects if degradation exceeds identified thresholds
- 2019 Hydrographic survey data will be evaluated to determine areas that have degraded below thresholds since 2009
- Areas degraded below threshold will be considered when evaluating new dredge permit requests

Figure 2. Section 408 preliminary results discussion, 4/21/2020 webinar.

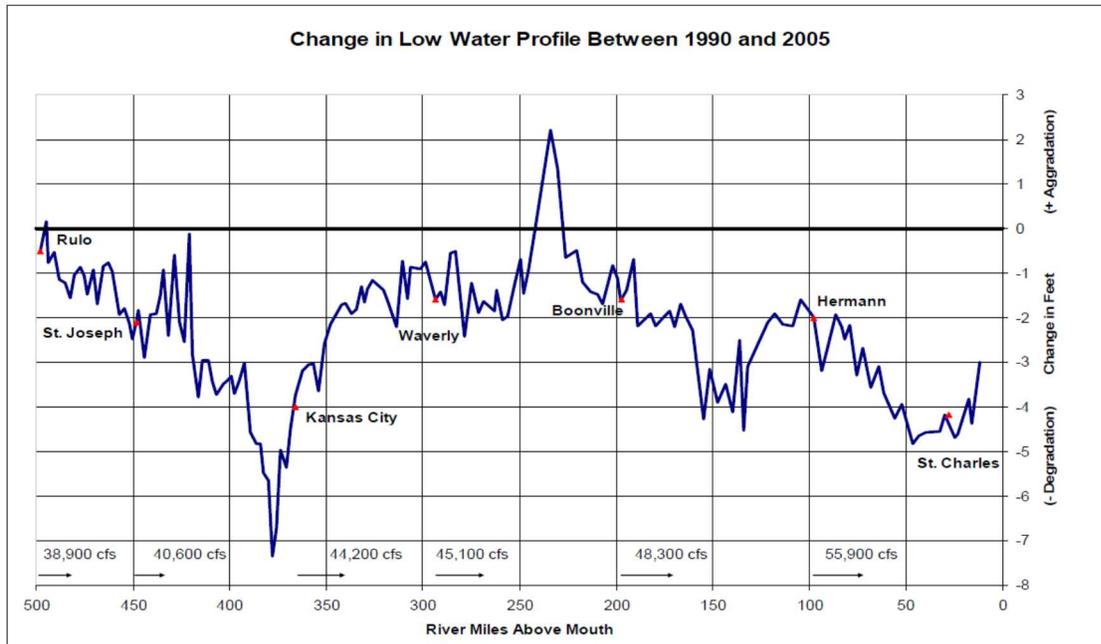


Figure 3. Change in low water profile between 1990 and 2005, Greater Kansas City Post Industry Day Education & Training Workshop, January 28, 2009.

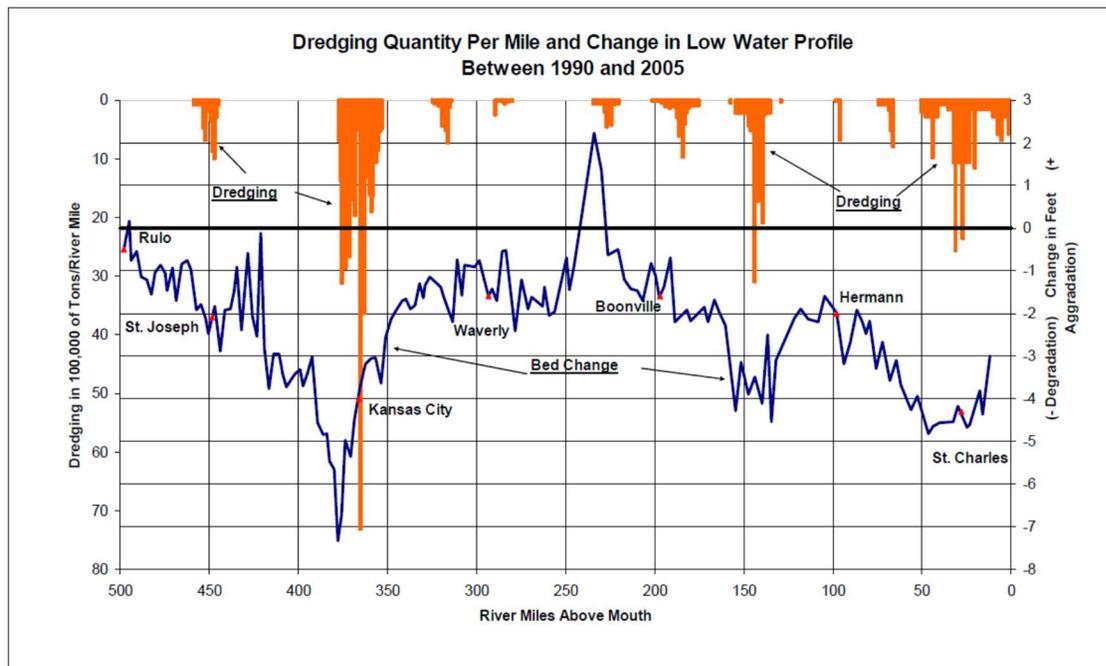


Figure 4. Dredging quantity per mile and change in low water profile between 1990 and 2005, Greater Kansas City Post Industry Day Education & Training Workshop, January 28, 2009.

Structure Type	Capital Costs
Auxiliary Intake Equipment	\$23,400,000
New Intake Construction	\$244,800,000
Alternative Water Supply Sources	\$135,600,000
Alternative Cooling Systems	\$342,000,000
Bridge Repairs	\$20,800,000
Levees and Floodwalls	\$18,300,000
Total Structure Capital Costs	\$785,500,000
Increased Annual O&M Costs – Utilities	\$29,000,000

Figure 5. Potential future municipal infrastructure costs due to bed degradation (in FY 17 dollars), May 2017 Technical Report.