



Project and Policy Workshop

July 31, 2018

Agenda

- Introductions and Board Update
- Policy Updates
 - Water Power and Permitting
 - Flood Control and Risk Management
 - Navigation, Shipping and Trade
- Policy Discussion Breakout Sessions
- Project Updates
- Social Time





Board Update

Tom Poer--President
David Combs--Executive Director

About MOARC

Vision: MOARC river basins managed for the benefit of people, the environment and the economy

Mission: To promote multi-beneficial use of water and related land resources in the MOARC region

Values: Dedication, Open Communication, Honesty, Integrity, Objective science-based decisions, Teamwork, Respectfulness



Interests

- *Agriculture*
- *Environment*
- *Flood Damage Reduction*
- *Navigation*
- *Shipping & Ports*
- *Power*
- *Recreation*
- *Water Quality & Supply*



Contact: Tom Poer

About MOARC

Membership

- Associations
- Local Governments
- Industry
- Manufacturers
- Businesses
- Farmers
- Individuals



Region

- Kansas
- Missouri
- Nebraska
- Iowa

Impact

- Water Infrastructure
- Water Resources Policies

www.moarc.org



Contact: Tom Poer



Policy Workshop Introduction

Matt Bond--Legislative Policy Chair

Policy Workshop Introduction

- Policy Updates—Each Committee
 - Water Power and Permitting
 - Flood Control and Risk Management
 - Navigation, Shipping and Trade

Contact names on each slide (Contact List Provided)
- Breakout Sessions
 - Three (Each Committee)
 - Approximate 45 minutes
 - Feedback on policies, priorities
- Report Outs: 3-5 Key Findings, Major Input or Supporting Information

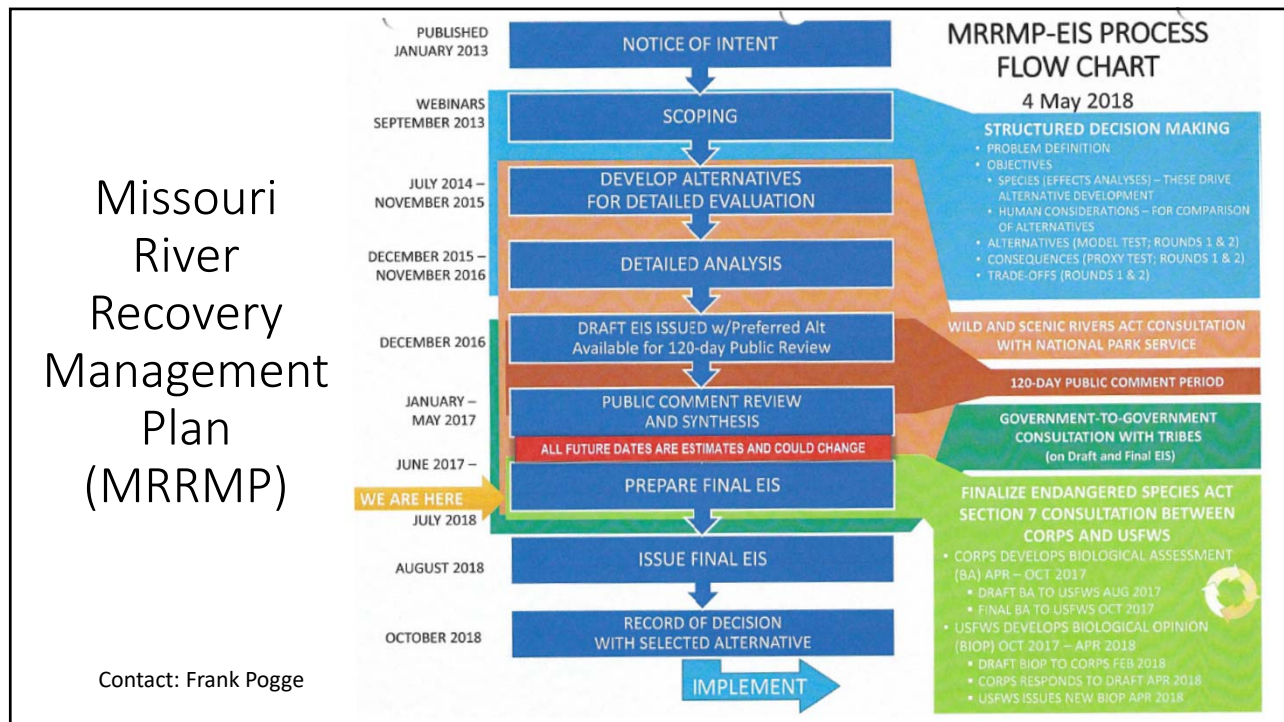


Contact: Matt Bond



Water, Power and Permitting

Dong Quach--Water, Power & Permitting Chair



Missouri River Bed Degradation Update

- Degradation project initiated Nov 2010; Project terminated July 2017
- Terminated because no federal cost effective project was determined
- Technical report completed to provide a product to the sponsors for future decision-making by sponsors
- Degradation within KC metro abated by deposition from 2011 flood; Degradation continues in other areas moving upstream following post 2011 flood event
- Expected additional future O&M costs to the federal government and locals due to future degradation expected
- No future federal interest foreseen addition degradation studies
- Technical Report found at <http://www.nwk.usace.army.mil/Missions/Civil-Works/Civil-Works-Programs-And-Projects/Missouri-River-Bed-Degradation/>

Water Supply Rulemaking Status

- Update and clarify policies governing water supply uses of Corps pursuant to the Water Supply Act of 1958 and Section 6 of the Flood Control Act of 1944
- The Corps solicited public comments from 16 Dec 2016 to 16 Nov 2017
- Comments are being considered; tentative schedule for final rule 31 Jan 2019
- Key features within the Rulemaking reported to include the following:
 - Explanation of the purpose and scope of the authority including the water supply uses that may be accommodated, and statutory limits on the Corps' authority to include storage for water supply
 - Definitions of key statutory terms, including "surplus water"
 - Pricing methodologies for surplus water contracts and for water supply storage agreements under the Water Supply Act
 - Provisions to simplify and streamline Corps administrative processes for authorizing surplus water withdrawals
 - Provisions to clarify the amount of water that may be withdrawn under water supply storage agreements, and procedures to account for water supply uses
 - Provisions to ensure coordination of proposed water supply actions with States, Tribes, federal agencies, and the public
- Applies only to federal reservoirs operated by the Corps of Engineers



Contact: David Combs/Karin Jacoby

What's the WOTUS 2-step?

1 – Repeal (hold) 2015 Clean Water Rule, then 2 – Revise WOTUS def'n

White House Reviewing EPA and Corps' WOTUS Replacement Rule

- June 15 - EPA and Corps sent proposal to redefine WOTUS to WHO for review
- Proposal, if a new rule is promulgated, would replace the Clean Water Rule
- Reviews typically take several months, proposal is not made public

A Misstep

June 29 – back to Step 1 w/ supplemental notice of Rulemaking to fix deficiencies

- opportunity to comment on additional considerations that support repeal

Goal - replace the approach in the 2015 Rule and the pre-2015 regulations

Narrow definition of navigable waters (term used in CWA) rather than allow "waters of the United States" to be ever-more broadly defined, in part through Justice Kennedy's "significant nexus" test in *Rapanos*



Contact: Karin Jacoby

CEQ and Regulations: FFRMS and NEPA

FFRMS

- Pres. Obama issued Jan 2015 EO 13690 the Federal Flood Risk Management Standard (FFRMS) (amending Carter era Floodplain Management EO 11988) to expand floodplain vertically and horizontally
- Congress sent June 2017 letter to President Trump seeking revocation of FFRMS
- Pres. Trump in Aug 2017 EO 13807, Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure, revoked EO 13690; EO 11988 remains unchanged
- Congress considers Preparedness and Risk Management for Extreme Weather Patterns Assuring Resilience (PREPARE); (HR 4177; included as amendment HR 4 in FAA Bill) similarity to FFRMS


NEPA

- Now rescinded Obama era CEQ Guidance expanded review to look at impact of environment on project (not just impact of project on environment) under NEPA (applies to Federal \$, license, permit, etc.)
- CEQ issued an Advance Notice of Public Rulemaking (ANPR) to update NEPA, comments due August 20th <https://www.federalregister.gov/documents/2018/06/20/2018-13246/update-to-the-regulations-for-implementing-the-procedural-provisions-of-the-national-environmental>



Contact: Karin Jacoby

MOARC Supports Federal Loan Programs for Water

- SRF Programs Still Viable, Lowest Cost Option
 - Missouri <https://dnr.mo.gov/env/wpp/srf/>
 - Kansas <https://www.admin.ks.gov/offices/chief-financial-officer/state-revolving-fund>
- Water Infrastructure Finance and Innovation Act (WIFIA) 
 - <https://www.epa.gov/wifia>
 - Low interest loans (match U.S. Treasury rates) for up to 49% of project cost
 - Two step process:
 - Competitive Letter of Interest – **Due July 31, 2018 for current cycle**
 - Selection Project Follow with Application/Fee
 - Customized repayment schedule with long repayment periods, deferrals



Contact: Matt Bond

Example WIFIA Repayment Flexibility

Example of a customized debt repayment structure for a \$100 million project



Contact: Matt Bond

Advocating for Clean Water Affordability

- Sewer Overflow Consent Decrees Are Driving Up Rates, Need to:
 - ✓ Consider affordability to prioritize compliance schedules
 - ✓ Support integrated planning concepts
 - ✓ Encourage green infrastructure
 - ✓ Encourage solutions that maximize water quality benefit
 - ✓ Promote data-driven, adaptive solutions



Contact: Matt Bond



Flood Control and Risk Management

Tom Kimes—Flood Control & Risk Management Chair

National Flood Insurance Program



- Omnibus extends NFIP to July 31st.
- H.R.6402 - National Flood Insurance Program Extension and Enhanced Consumer and Community Protections Act of 2018
 - House - Financial Services
- Senate – Lack of Consensus on Reform
- H.R.5846 and S.2862 - Promoting Flood Risk Mitigation Act
 - The bill requires the Government Accountability Office to conduct a study of the efficacy of buyouts of flood-prone property acquired by the Federal Emergency Management Agency and examine ways to streamline funding to provide more timely assistance to a larger number of State and local governments.
 - Passed the House
 - Senate Banking, Housing, and Urban Affairs



Contact: Tom Kimes

National Flood Insurance Program



- Need to address
 - Affordability
 - Investment in Flood Mitigation
 - Resiliency to Reduce Long-term Costs
 - Maintain Coverage for Repetitive-loss properties
 - Address Applicability and Benefits to Commercial and Industrial Properties



Contact: Tom Kimes

Water Resource Project Development/Needs

- Water resource projects first require an **Authorization**; typically through a WRDA and **Appropriations** through a funding bill
- Projects are developed through a phased approach; **Study, Design, and Construction**
- All projects begin as a New Start Study
- New Starts for Water Resource Projects are needed to meet water resource needs
- New Starts are limited across the country; Congress needs to direct New Starts in the appropriations budget to ensure Corps selects and funds future projects
- Locals request projects/New Starts based on local or regional water resource issues
- Known water resource regional needs include:
 - **Kansas River Basin Study - additional flood control and future water supply sustainability**
 - **Lower Missouri River basin - review opportunities for navigation, flood control, bank stabilization**
 - **Osage River basin – ecosystem restoration to protect shoreline riparian areas and adjacent lands**
 - **Little Blue River basin – flood control within a rapidly urbanized area**



Contact: David Combs

Water Resource Project Development/Needs

Continuing Authorities Program (CAP)

- Multiple existing Authorities to support small projects
- Locals request small projects (i.e., flood control, infrastructure protection, ecosystem projects)
- Corps racks and stacks project requests across the nation; limited funds limit effectiveness and projects

Planning Assistance to States (PAS)

- Provide technical assistance to gov entities; no design/construction of projects
- Extremely limited funding allocated for each State

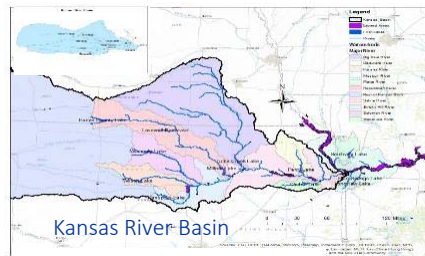
Water Resource Project Issues:

- The requirements for starts at phases and pauses through incremental funding delay projects & increases costs; streamline funding through phases needed
- Manipulation of Agency project priorities by OMB
- Inability to use the continuous contract clause to make contracting more efficient
- Insufficient funding of CAP and PAS programs
- Management of CAP and PAS at the HQ and ASA level; needs to be powered down



Contact: David Combs

New / Future Large Projects



Contact: David Combs

Continuing Authorities Program (CAP)

Section 14 of the Flood Control Act of 1946
Streambank (Erosion) Protection

Section 205 of the Flood Control Act of 1948
Flood Risk Management

Section 206 of the WRDA of 1996
Aquatic Ecosystem Restoration

Section 1135 of the WRDA of 1986
Ecosystem Restoration (for effects of an existing
Corps project)

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Contact: David Combs

FY 2019 CAP Program Status National

Section	House	Senate
1135	\$6M	\$8M
206	\$15M	\$10M
14	\$8M	\$8M
205	\$10M	\$8M
204	\$10M	\$8M
PAS	\$9M	\$8M



Contact: David Combs

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Funding Watch

- Disaster Recovery Reform Act (DRRA) received overwhelming bipartisan support in House in Dec 2017 is now included as Title VI in House FAA bill H.R. 4
- DRRA will help communities better prepare for, respond to, recover from, and mitigate against disasters of all kinds
- DRRA provides broad FEMA reforms, increases federal emphasis on predisaster planning and mitigation, and would create a new funding stream
- “The President may contribute up to 75 percent of the cost of hazard mitigation measures which the President has determined are cost effective and which substantially reduce the risk of, or increase resilience to, future damage, hardship, loss, or suffering in any area affected by a major disaster.”
- May be used to fund activities authorized for construction within the scope of a federally authorized water resources development project of the Army Corps of Engineers if such activities are also eligible activities under DRRA



Contact: Karin Jacoby

WRDA Legislative Update

- Targeted to be developed every 2 years to authorize projects and provide Corps guidance; **2018 WRDA in process**
- **House passed its version of WRDA in June 2018**
- **Senate E&W Committee submitted its version of WRDA to full Senate May 2018**
 - Full Senate has not voted on WRDA; Senator with hold on WRDA refuses to give it up
 - Floor time will be a challenge with confirmations competing for floor time
- MOARC advocated combining 2 KC Levees authorities into a single project authority for funding efficiency
- MOARC interests - House vs Senate:

House	Senate
<i>No KC Levee language</i>	<i>KC Levee authorization language</i>
<i>Increases CAP program funding</i>	<i>Increases CAP program funding</i>
<i>Increases CAP per project limit</i>	<i>Increases CAP per project limit</i>
<i>Restricts MRRP funding for IRCs</i>	<i>Provides for sponsors to pay above cost share on Sec 14</i>
<i>Limits application of Sec 408</i>	<i>Expands authority Sec 408 jurisdiction</i>
- **Conferencing House and Senate versions expected to be long and difficult**
- Future WRDA project interests: Study authorities for Osage River and Lower Missouri River basins



Contact: Karin Jacoby

Section 14 of 1899 Rivers and Harbors Act – codified at 33 USC 408 (aka Section 408)

Authority applicable to Local Flood Protection Works? **NOT**

- RHA is independent authority, but it is not an unlimited authority
- Flood Control Acts (FCAs) came later and are more specific to local flood protection works
 - Recognize state and local rights and interests (i.e., non-Fed control)
 - Local sponsors choosing to partner with the Army Corps do so under authority of the FCAs and the implementing Federal Flood Control Regulations (circa 1936–44)
 - Conditions of cooperation pertaining to: a) land acquisition, b) liability, and c) adherence to prescribed regulations, require assurances be given
- Courts have held, in accordance with 33 CFR 209.300, the “prescribed regulations” to which a local sponsor must adhere, are the 33 CFR 208.10 Flood Control Regulations
- Except, when, with approval of the Secretary, other requirements were identified at the time local sponsor “assurances” were given (i.e., prior to Federal \$ spent on construction)



Contact: Karin Jacoby

Section 408 v. Flood Control Regulations

- Section 14 Rivers and Harbors Act of 1899 (aka Section 408)
 - Navigation statute intended to protect commerce
 - Permission for alterations that are *not injurious to the public interest*
 - Now being interpreted as a flood risk management authority (targeting levees)
 - Inconsistent and retroactive application
 - No guarantee of decision, no clear appeals process (since not a regulatory permit)
 - Long and costly review w/o added value, and w/ unintended consequences
- 33 CFR 208.10 Flood Control Regulations
 - Allows for improvement or alteration to flood control project
 - DE determination w/ no objection so long as project *not adversely affected*
 - O/O makes decision on whether to alter if not any Fed. \$
 - If Fed \$ and O/O wants to use, then pursue as a project modification



Contact: Karin Jacoby

Federal Overreach

- President's SCOTUS nominee, D.C. Circuit Judge Brett Kavanaugh
- Clerked for retiring Justice Kennedy
- Built a reputation on the court for fighting government overreach
- Stands out for his administrative law opinions
- Expresses strong views about the separation of powers and executive overreach
- Shows Administration serious about taming the 'administrative state'



Contact: Karin Jacoby



Navigation, Shipping and Trade

Richard Grenville—Navigation, Shipping & Trade Chair

Inland Waterways



- Approx. 12,000 miles of navigable waterways maintained by the USACE
- Approx. 600 million tons are transported on inland waterways
- Main commodities are coal, petroleum, chemicals and **agricultural products**
- Missouri river moves approx. 11 million tons of commerce on 734 miles from Sioux City IA to the Mississippi



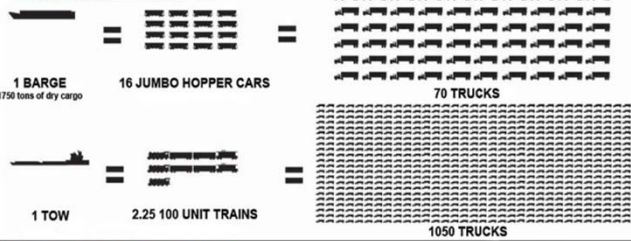
Contact: Richard Grenville

Capacity Equivalents

CARGO CAPACITY

BARGE	15 BARGE TOW	JUMBO HOPPER CAR	100 UNIT TRAIN	LARGE SEMI TRUCK
1750 TON	26,250 TON	110 TON	10,000 TON	25 TON
1,250 BUSHELS	918,750 BUSHELS	3,850 BUSHELS	350,000 BUSHELS	779 BUSHELS
175,000 GALLONS	20,625,000 GALLONS	30,240 GALLONS	3,024,000 GALLONS	7,885 GALLONS

EQUIVALENT UNITS



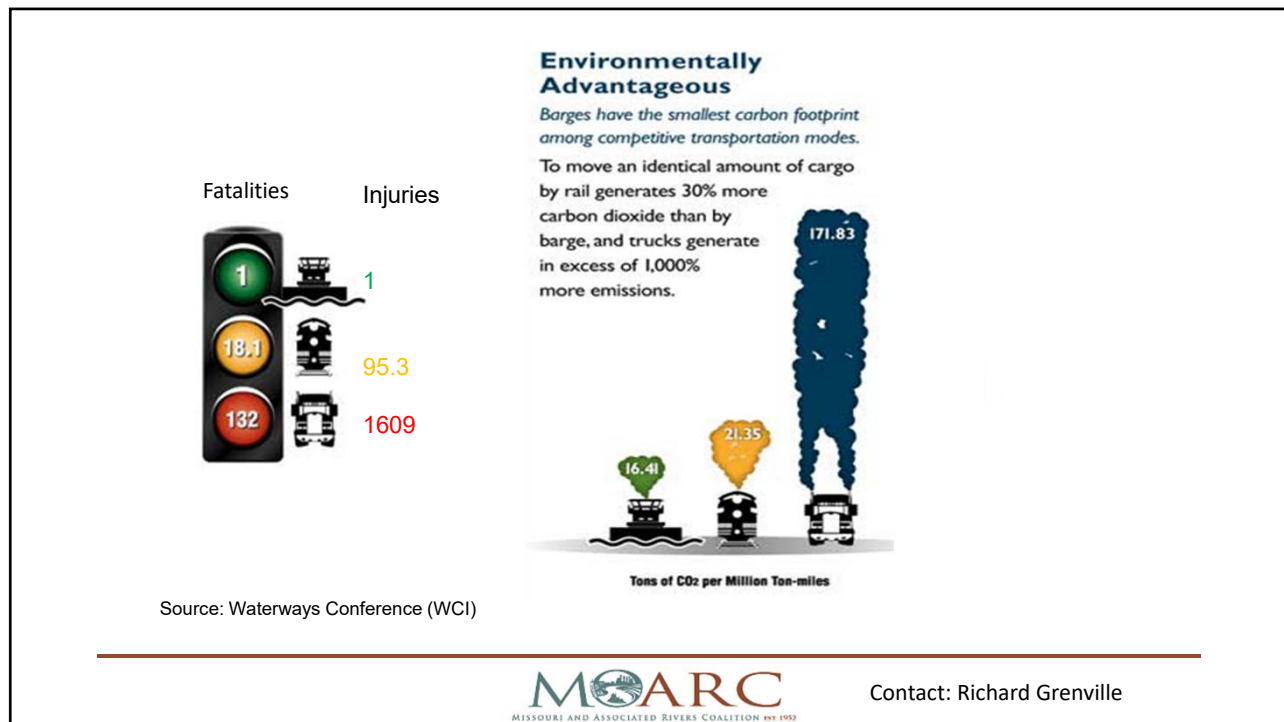
EQUIVALENT LENGTHS

15 BARGE TOW .25 MILE	2.25 UNIT TRAINS 2.75 MILES	1050 TRUCKS (Bumper to Bumper) 13.9 Miles
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Source: MARAD



Contact: Richard Grenville

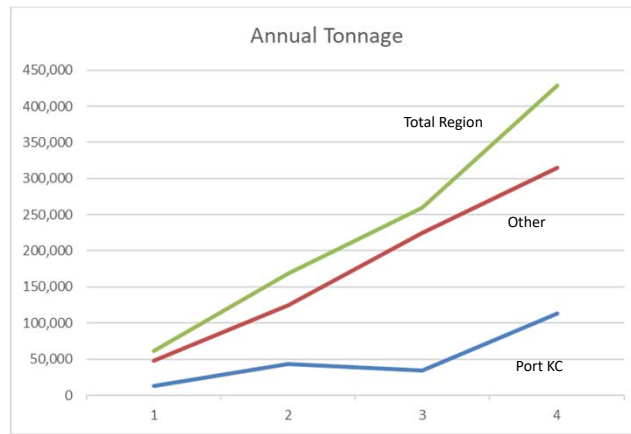


The Port of Kansas City MO

- The Municipal Port of Kansas City built in the late 1920's
- Owned by the City of KC MO
- Leased to a private operator Mid West Terminals
- Closed in 2007
- Late 2000's drought and upriver states warring with USACE about water use
- Gross reduction in commercial tonnage
- 2011 MoDOT commissioned a MO river freight plan
- 2012 Port KC signed a 20 year lease with the city
- 2012 – 2015 Port KC undertakes infrastructure improvements
- 2015 Port KC partners with Kaw Valley Companies for port operations
- 2015 (summer) Kaw Valley starts barge operations



Annual Tonnages



Contact: Richard Grenville

Economic Impact

ECONOMIC IMPACT OF PORT KC



691

Total Jobs Supported



\$41.0M

Labor Income



\$158.7M

Output



\$4.9M

State and Local Tax Revenue

Includes direct, indirect, and induced economic impacts of Port KC operations and capital investment.

Source: MoDOT



Contact: Richard Grenville



Project Updates

Tom Poer--President
David Combs--Executive Director

MOARC 2018 Priority Projects



Construction General

- Kansas City's Levees
- Swope Park Industrial

General Investigations

- Manhattan Levee
- Upper Turkey Creek
- Kansas River Basin
- Lower Missouri River
- Grand River Basin
- Little Blue River Watershed
- Osage River Basin

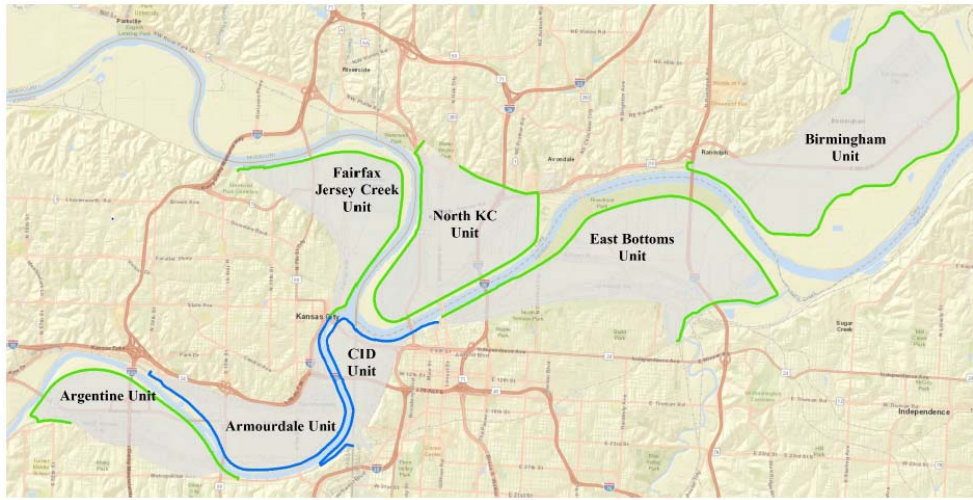
Other Study Efforts

- Continuing Authorities Program (CAP)
- Planning Assistance to States Program (PAS)
- Blue River Basin - Aquatic Restoration
- Operations & Maintenance
 - Missouri River Bank Stabilization & Navigation Support - Sioux City to Mouth



Contact: Tom Poer

PROJECT OVERVIEW & PHASES



Feasibility study completed in two phases: Phase 1 authorized in 2007 (\$115 Million) —
Phase 2 authorized in 2016 (\$328 Million) —

