

# United States Senate

WASHINGTON, DC 20510

November 20, 2020

The Honorable Ryan McCarthy  
Secretary of the Army  
108 Army Pentagon  
Washington D.C. 20310-0108

Dear Secretary McCarthy,

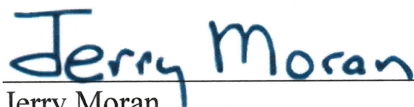
We previously sent a letter to Assistant Secretary R.D. James on September 7, 2018, expressing our concern about the implications of a decision from the United States Court of Federal Claims regarding patterns of flooding along the Missouri River. (Attached). As stated therein, on March 13, 2018, the United States Court of Federal Claims ruled that the U.S. Army Corps of Engineers (Corps) bears responsibility for causing recurrent flooding that damaged farms and property along the Missouri River in Missouri, Iowa, Nebraska and Kansas in 2007, 2008, 2010, 2013 and 2014. Based on that decision we “strongly encouraged the Corps to promptly and fairly resolve these claims, making our constituents whole, allowing farmers and others damaged by these floods to move on with their lives and livelihoods”. This letter was followed by an in-person meeting last year with Assistant Secretary James where we once again implored his leadership to oversee and resolve this matter given the strong liability finding against the Corps. Despite our multiple requests over the past two years, the Corps has taken no action and, in fact, has refused to discuss a resolution of this matter with the parties who have been damaged and have had property taken from them by the Corps through inverse condemnation.

Following the initial finding of liability, there was a second trial to set forth a methodology for calculating damages, which concluded on September 22, 2020. Judge Nancy B. Firestone’s decision in the case is imminent, yet, we are informed, the Corps once again plans to ignore the Court’s expected decision. Despite more than 6 years of litigation involving a multitude of lawyers from the Corps resulting in great expense to both sides, the Corps continues to ignore clear liability for its actions and instead expresses its intent to exhaust all appeals for years to come. This has been the consistent tone-deaf response by the Corps to every overture for resolution by the victims of the flooding. We strongly urge the Corps take responsibility for changes implemented by the Corps in 2004 under the Missouri River Recovery Program (MRRP). These policy decisions have caused atypical and recurrent flooding along the Missouri River. Farmers, landowners and business owners have been, and continue to be, adversely impacted as a direct result of the Corps’ actions.


We once again strongly urge that the Corps cease further delay and make our constituents whole, allowing our farmers and others damaged by these MRRP floods to move on with their lives and regain their livelihoods. It is unacceptable that some of our constituents have now waited over 13 years to be compensated for the injuries and loss of use of their property that was unconstitutionally taken from them by the Corps. The Court’s rulings have been clear and in favor of the plaintiffs, our constituents, on multiple occasions and ultimately will result in the

Corps being responsible for the flood damage. In keeping with the Soldier's Creed, "I am a guardian of freedom and the American way of life," it is time for the Corps to uphold the Court's ruling and resolve these claims promptly and fairly.

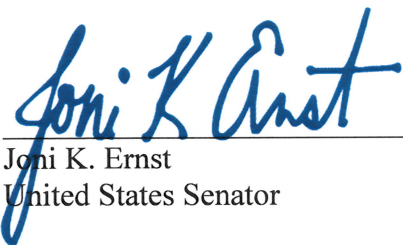
Sincerely,



Jerry Moran  
United States Senator



Charles E. Grassley  
United States Senator



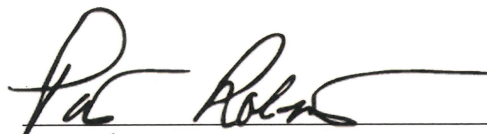
Joni K. Ernst  
United States Senator



Deb Fischer  
United States Senator



Ben Sasse  
United States Senator



Pat Roberts  
United States Senator



Roy Blunt  
United States Senator