

Attorney General Bruning Announces Favorable Missouri River Ruling in the Eighth Circuit Court of Appeals

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Lincoln, NE-- Attorney General Jon Bruning announced today that the Eighth Circuit Court of Appeals has ruled in favor of Nebraska in the pending Missouri River litigation. The Court affirmed Nebraska's injunction issued last spring by the U.S. District Court of Nebraska. The injunction requires the United States Army Corps of Engineers to operate the Missouri River system consistent with the Master Manual. The Court specifically stated that the Nebraska injunction goes into effect again with the Court's decision.

"The Court's ruling is a significant victory for Nebraska in its ongoing fight to protect our interests along the Missouri River corridor," said Bruning.

The Court also overruled the U.S. District Court in South Dakota's denial of Nebraska's right to intervene in the lawsuit filed last year by South Dakota. Bruning personally argued before the Court in February this year that Nebraska had a right to be at the table.

"Today's ruling adopts the position presented to the Court and makes it clear that Nebraska has a right to intervene in all future lawsuits regarding the Missouri River System," said Bruning.

In addition to ruling in Nebraska's favor on its appeals, the Court also found that South Dakota and North Dakota were improperly allowed to stop releases from the Missouri River reservoirs and rejected the Corps position that it had unlimited discretion in operating the river flows.

The river flows are necessary to provide water supply for thermal power plants like Cooper Nuclear and Fort Calhoun plus municipalities like Omaha. Those interests, coupled with providing hydroelectric power for Nebraska's public power districts and recreation, total more than \$420 million in economic impact to Nebraska each year. They are now protected as long as Nebraska's injunction is in place.

The South Dakota and North Dakota claims rejected by the Court today asked the Court to reduce river flows passing through Nebraska.

"Today's ruling averts the possibility of higher consumer costs, lost economic benefits and further strain on Nebraska's already troubled economy," said Bruning.