



Case Fact Sheet: *Ideker Farms, Inc. et al. v. United States of America*

Fast Facts:

Case No.: 1:14-cv-00183

Case Filed: March 5, 2014

Case Ruling: March 13, 2018

Plaintiffs: Ideker Farms, Inc. et al., comprised of 372 farmers, landowners and business owners located along the Missouri River in Missouri, Kansas, Iowa, Nebraska, South Dakota and North Dakota

Defendant: United States of America

Lawsuit Management: Am Law 100 firm [Polsinelli](#) and [Cohen Milstein](#) of Washington, D.C., [filed the lawsuit](#) in the United States Court of Federal Claims in Washington, D.C. Lead Counsel provided by [R. Dan Boulware](#) of Polsinelli.

Background:

On Mar. 5, 2014, Polsinelli and Cohen Milstein filed a lawsuit in the Federal Government in the United States Court of Federal Claims in Washington, D.C., challenging the U.S. Corps of Engineers' management of the Missouri River, seeking reasonable and just compensation for losses caused by atypical and ongoing flooding dating back to 2007.

The Missouri River has changed since 2004, and it is now more prone to flooding. For over six decades, the Corps placed the highest priority on flood control as mandated by Congress in the Flood Control Act of 1944. The water management guidelines and the Corps' operations of the Missouri River, under last century's new reservoir system and the Bank Stabilization and Navigation Project, resulted in the narrowing of the river, stabilization of the banks and abatement of flooding. Since 2004, that has changed with the deprioritization of flood control by the Corps and aggressive construction of habitat for fish and wildlife. The changes have adversely affected those in the river basin.

The Case:

The "mass action" case on behalf of 372 Plaintiffs brings claims under the Fifth Amendment of the United States Constitution for the unconstitutional taking of private property without just compensation.

Plaintiffs assert that the priority for flood control, as well as policies and operations designed to protect landowners near the River from flooding, changed beginning in or by 2004, to provide for water conservation and to conform to environmental laws and regulations at the insistence of the U.S. Fish and Wildlife Service, and more specifically, to protect the least tern, piping plover and pallid sturgeon. Changes in the Corps' policies and practices, which Plaintiffs allege have directly led to the recurrent, atypical flooding, include:

- Increasing the water storage levels and altering the schedule for water releases from the six large reservoirs located along the upper basin of the river upstream from Yankton, South Dakota;
- The notching or lowering of numerous river control structures (dikes and revetments) along the River causing the scouring of the banks and widening of the river;

- Eliminating or allowing wing dikes and revetments to degrade;
- The creation of emergent sandbar habitat and shallow water habitat;
- Restoring the historical and natural chutes of the river sometimes referred to as secondary channels; and
- Reintroducing an enormous amount of sediment into the River causing aggradation.

Throughout the course of this trial, more than 90 witnesses testified during 55 days of trial for the presentation of evidence. Including closing arguments, the trial lasted a total of 63 days. Throughout Phase One of the case and during extensive discovery, over 100 depositions were taken and in excess of 20 million documents were produced.

The Team:

The Polsinelli team handling the case included Lead Attorney [R. Dan Boulware](#) (Commercial Litigation/St. Joseph), [Edwin Smith](#) (Financial & Securities Litigation/St. Joseph), [Seth Wright](#) (Commercial Litigation/St. Joseph), [Todd Ehler](#) (Commercial Litigation/St. Joseph) and [Sharon Kennedy](#) (Commercial Litigation/St. Joseph).

The Cohen Milstein team handling the case included [Benjamin Brown](#) (Antitrust/Washington, D.C.) and [Laura Alexander](#) (Antitrust/Washington, D.C.).

Timeline:

March 5, 2014 – case [filed](#) in the Federal Claims Court in Washington, D.C.
 October 15, 2014 – Amended complaint [filed](#) in the Federal Claims Court in Washington, D.C.
 March 6, 2017 – Trial phase one began in Kansas City, Mo. Federal Courthouse
 April 24, 2017 – Trial phase one moved to Federal Claims Court in Washington, D.C.
 June 23, 2017 – Trial recessed for post-trial briefing and closing argument
 November 13, 2017 – Completion of post-trial briefing, closing arguments in Kansas City, Mo.
 December 1, 2017 – Conclusion of briefing and closing arguments
 March 13, 2018 – Ruling issued by Judge Nancy B. Firestone in Washington, D.C. on Phase One Liability

The Ruling:

Judge Nancy B. Firestone with the United States Court of Federal Claims in Washington, D.C. issued a ruling in *Ideker Farms, Inc. et al. v. United States of America*, resulting in a victory for Polsinelli and Cohen Milstein’s plaintiffs. The Federal Government was found to have caused a “taking” of plaintiffs’ properties by flooding. The ruling states that the government must compensate farmers, landowners and business owners for the flood damage. The case will now proceed to Phase Two to determine the losses/damages which are believed to exceed \$300 million.

A complete copy of the court’s ruling can be found [here](#).

Resources:

Case website: <http://www.missouririverflooding.com>

Flood photos: <http://www.missouririverflooding.com/SitePages/Pictures.aspx>

Civil Docket for Case:

<http://www.missouririverflooding.com/SiteAssets/SitePages/Pleadings/Docket.pdf>