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Editors' Note: Interviews, Photos and Complaint Available

**Devastating Flooding Prompts Missouri River Farmers/ Businesses to Sue
U.S. Army Corps of Engineers**

Complaint Filed in Federal Court Seeks Damages for Lost Land and Way of Life

Kansas City, MO (March 5, 2014) Farmers, small businesses and other property owners along the Missouri River today filed a lawsuit in federal court challenging actions of the United States Army Corps of Engineers and seeking damages caused by devastating, recurrent flooding along the river from 2006 to the record flood of 2011 that lasted more than 100 days and was declared the worst in the region's history.

"For decades these Missouri River residents invested their fortunes and futures in developing farms, businesses and communities on this land in reliance on the Corps managing the river in a way that would deter flooding. Valuable farm ground is being permanently destroyed and a way of life is now threatened," said Plaintiffs' Lead Counsel R. Dan Boulware, a partner at national law firm Polsinelli.

Ideker Farms, Inc. et al v. United States of America was filed in the U.S. Court of Federal Claims by Polsinelli PC, based in Kansas City, Mo., and Cohen Milstein Sellers & Toll PLLC, of Washington, D.C., on behalf of farmers and other property owners in Missouri, Kansas, Iowa, Nebraska and South Dakota for damages sustained from one or more floods that occurred in 2007, 2008, 2010 and 2011. All four floods received a Presidential Declaration for Disaster.

The claims are brought under the Fifth Amendment of the U.S. Constitution for the unconstitutional taking of property without compensation. According to the Plaintiffs, for at least six decades prior to 2004, the U.S. Corps of Engineers had prioritized flood control when managing operations of dams, reservoirs and other structures along the river. During that time, floods were shorter and less frequent. However, Corps policy changed beginning in 2004 to conform river operations with environmental laws and regulations, including the Endangered Species Act, The National Environmental Protection Act, the Clean Water Act, and the 2000 U.S. Fish and Wildlife Service Biological Opinions.

For named plaintiff Roger Ideker of Ideker Farms, Inc., of Corning, Mo., a third-generation farming operation, the change in Corps policy has had a significant impact. "I know I speak for many farmers and others along the Missouri River when I say that the flooding we have experienced since 2006 has been much different than that of the past. The frequency and severity make it a real and continuing hardship and threat to our way of life."

Plaintiffs' Co-counsel Benjamin Brown, a partner at Cohen Milstein, added: "The Constitution essentially says that, if you are going to make people sacrifice their property for a public good like protection of native species of wildlife, then you have to pay them just compensation. That's what this case is about – ensuring that the federal government cannot place the entire

financial burden of a broad societal initiative on the backs of a handful of farmers and communities.”

The lawsuit alleges that the Corps policy changes directly led to the recurrent flooding. These include:

- Increasing the water storage levels and altering the schedule for water releases from the six large reservoirs located along the river’s upper basin upstream from Yankton, S.D.;
- Changing the structure of dikes and dams along the river to scour the banks and make the river more shallow;
- Creating secondary channels that increase the frequency and duration of floods.

In addition, the lawsuit states that after 2004, the Corps’ operating criteria for releases from the Missouri River reservoirs, as provided in the Corps’ Master Manual, no longer required that certain releases, including early releases, had to be made based upon the Corps’ forecast of the annual snowmelt and rainfall runoff. And, as a result of that deviation from the prior mandatory release criteria, which deviation was done to serve the interests of fish and wildlife, flooding has occurred from 2007 to the present that would not have occurred under the prior criteria that prioritized flood control.

“The U.S. Army Corps of Engineers knew these changes would lead to the river spreading out, causing more substantial flooding for the surrounding lands,” stated Boulware and Brown.

For additional information including a copy of the complaint visit:
www.MissouriRiverFlooding.com or call 816-364-2117.

Ideker Farms, Inc., et al v. United States of America, Plaintiffs are represented by Polsinelli PC, a national law firm based in Kansas City, Mo., and Cohen Milstein Sellers & Toll, PLLC, based in Washington, DC. Attorneys handling the case for Polsinelli include R. Dan Boulware, Edwin H. Smith and Seth C. Wright. The attorneys handling the case for Cohen Milstein include Benjamin D. Brown, Laura Alexander, and Hiba Hafiz. For more information about Polsinelli, visit www.polsinelli.com. For more information about Cohen Milstein, visit www.cohenmilstein.com.
