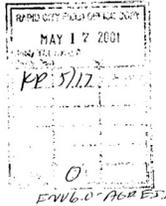


Michael B. Jandreau  
Chairman



605-473-5561  
Lower Brule, SD 57548



Kenneth Parr  
U.S. Bureau of Reclamation  
Rapid City Field Office  
515 9th Street, Room 101  
Rapid City, South Dakota 57701

Dear Ken:

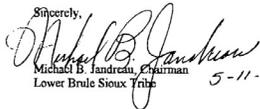
The Lower Brule Sioux Tribe has reviewed the "Angostura Unit Contract Negotiation and Water Management Draft Environmental Impact Statement" developed by the Bureau of Reclamation, Dakotas Area Office, Bismark, North Dakota. Please find attached, the Lower Brule Sioux Tribe's Comments on the Angostura Unit Draft Environmental Impact Statement.

I would like to express our gratitude for the time and assistance that you and your staff provided to the Tribe's Cultural Resources Staff, Alvin Grassrope and Scott Jones. Scott has indicated to myself that you were very hospitable during the field and site visit conducted at the Reservoir.

If you should have any questions or comments, please contact Scott at 605-473-5399.

Thank you.

Sincerely,

  
Michael B. Jandreau, Chairman  
Lower Brule Sioux Tribe  
5-11-01

**THE LOWER BRULE SIOUX TRIBE'S COMMENTS  
ON THE "ANGOSTURA UNIT CONTRACT NEGOTIATION AND WATER  
MANAGEMENT, DRAFT ENVIRONMENTAL IMPACT STATEMENT,  
BUREAU OF RECLAMATION, DAKOTAS AREA OFFICE, BISMARK, NORTH  
DAKOTA**

May 11, 2001

The Lower Brule Sioux Indian Reservation is located on the Missouri River, in Lyman and Stanley Counties, Central South Dakota. The Lower Brule Sioux (Kul Wicasa Oyate) have a long history in the area including much of the Cheyenne River drainage. In 1880 Elder men of the Tribe claimed the area between the Black Hills and the Missouri River on the east and west, and between the Bad (Titowan) River and Niobrara River on the North and South, as Lower Brule aboriginal hunting territory (Commissioner of Indian Affairs, Annual Report, Dakota Territory, 1881). The Cheyenne River is within the exterior boundaries of the Great Sioux Nation with all of the constituent bands of the Great Sioux Nation, holding federal reserved water rights in the Cheyenne River Drainage.

Because of the various level of impacts that have been established by the Operation and Maintenance (O&M) of the Reservoir. And, because the Tribe believes that the Natural Flow Alternative needs further investigation, [the Lower Brule Sioux Tribe does hereby respectfully request that the "Improved Efficiencies Alternative" be selected by the United States Bureau of Reclamation as the Preferred Alternative.] Below you will find several comments and questions that we have about the way the Dam is operated, the information contained in the Environmental Impact Statement (EIS), and the impacts that the Project has on important cultural and historic sites. [The author would like to express his gratitude to the Staff of the Rapid City, SD, BOR Office, as they have been extremely helpful in assisting the Tribe understand the issues identified in the EIS, and in fact in facilitating our ability to comment.]

**Table S.1: Impacts of the Alternatives**

3 [We are concerned about chemical measurements provided as in this table. The following questions are poised. Why was phosphorous the only contaminant listed under the Surface Water Quality row? Why is uranium the only contaminant listed under the Sediment row? Also on Page 40 there is an extended discussion on the various contaminants that were looked at. It is unclear to the author how ongoing analysis will be completed and what the level of Tribal involvement will be. Recently, the Cheyenne River Sioux issued a fish alert related to high levels of mercury. How does the BOR view this problem? Are there any planned joint efforts between the Tribes and BOR to address the issue of contaminants and their accumulative impacts on the fish and other species associated with the Cheyenne River.]

Social and Economic Conditions row.

4 [The only projection for any of the Tribes is for Pine Ridge, and that is basically no benefit. The Lower Brule Sioux Tribe does not understand how a project with the level

1. Noted.

2. Thank you for the compliment. The LBST participated as a cooperating agency during the NEPA Process (see p. 5 of the EIS) and were kept informed of the progress of the EIS.

3. Table S.1 is a summary of impacts to water quality. As explained on pp. 129-130 of the EIS, phosphorous was singled out as an indication of eutrophication, one of the two indices used to analyze water quality. Uranium is described in the "Sediment" section of Table S.1 because it was the only element that exceeded the baseline for western soils (it should be noted that the sediment sample came from an off-river site)—see p. 138 of the EIS. Analysis concluded that none of the alternatives would have significant effects on water quality, including mercury concentrations. Thus, no further study is warranted. There are no joint efforts planned between the LBST and Reclamation.

4. The EIS analyzed economic impacts of the alternatives on the OST, CRST, and LBST. Analysis indicated there would be no economic impacts on the CRST or the LBST. Economic impacts to the OST can be found on pp. 153-157 of the EIS.

- of impact that this one incurs, does not benefit any Tribe.] This is unacceptable. [Is there an existing plan to provide some economic relief to any of the Tribes affected by this Project? The major blunt of impacts affect the Pine Ridge Indian Reservation. This is an 8,000,000.00 Project. There is an impression here that Tribes have been denied any benefits from this Project. [There are adverse cultural resources impacts as well as several environmental justice issues that need to be resolved.]

**Indian Trust Assets row.**

- 7 [The reference to "settlement between the State and the Oglala Sioux Tribe could affect water available from the Angostura Unit;" is extremely troubling. There are Great Sioux Nation Federal Reserved Water Rights/Winter Rights Doctrine issues that go to the heart of this statement. What is this language referring to? Is there a settlement between the Oglala and the State of South Dakota being negotiated for Cheyenne River Water?]

After an onsite visit was conducted, Tribal Staff observed that other than cattle impacts the drainage appeared healthy near the Oral Bridge. The Staff also visited the Dam Facility and drove around the Reservoir. Mr. Ken Parr, and Mr. Jim Kangas were very helpful throughout the site visit. However there is some concern about the level of irrigation return flows. These flows resulting from unused water flowing into existing drainages indicate that better water management could be explored. There are continuous flow streams related to the irrigation return flow that normally would flow intermittently. The

- 8 impacts from the irrigation return flows are not fully understood by the Tribe. [This is a reason that the Tribe has selected the **Improved Efficiencies Alternative** as the recommended preferred alternative.] The Tribe supports the development and implementation of "Best Management Practices" (BMP).

**Page 5, Future Resource Management Plan**

- 9 In this section of the EIS you refer to the future development of a Resource Management Plan. [On page 12 you discuss the National Historic Preservation Act, and close the section with "Reclamation is using the means of the EIS to comply with the act and implementing regulations." The Lower Brule Sioux Tribe finds these two statements confusing. We also disagree with the notion that the Reclamation is using the EIS to comply with the act. The National Environmental Policy Act and NHPA call for the lead agency to avoid, minimize or mitigate adverse impacts to sites of cultural and historic significance. During our tour we discussed with Mr. Parr and Mr. Kangas the fact that there is not a Cultural Resources Management Plan for the Angostura Reservoir or the Unit. We are very concerned with sites such as the Ray Long site which may have enormous archaeological importance yet which remain unaddressed.] During our visit, Mr. Kangas indicated that he was working on this site. However, we were not presented with a plan or approach that had been approved. The Bureau of Reclamation has legal requirements to fulfill their stewardship responsibility over important cultural and historic properties. We believe that the BOR has not met this responsibility. Further, we believe that Tribes will need to be consulted on any activities related to the federal undertaking in the Angostura Area (including Dam operations and the attendant impacts that they will have on cultural sites). Also, there needs to be a comprehensive cultural resources survey

2

that produces appropriate data for the whole project area. It appeared that there is not an adequate awareness of the level of impacts affecting sites such as the Ray Long Site. The Tribe appreciates the efforts of Kimball Banks and Jim Kangas to make available pertinent information and reports regarding the Angostura Reservoir. However, the maps that were presented to the Tribe are very inadequate. The numbers are difficult to read and even more difficult to attach to a particular site. Lower Brule suggest that the BOR update all cultural resources maps, and include Traditional Cultural Properties, sensitive plant and animal species, and important view sheds. There is a lot of development in the area, and the Lower Brule Sioux Tribe is extremely concerned that if there is not some check on this development, the intrinsic beauty and naturalness of the area will be diminished. This development will also potentially impact or destroy important cultural and historic sites such as the Ray Long site, which are being intruded on by traffic and development in adjacent areas. The Ray Long Site is a National Register Site and needs to receive appropriate attention and preservation activities. Perhaps under the **Improved Efficiencies Alternative** there will be an opportunity to introduce Best Management Practices that benefit the cultural and historic sites located in the Unit area. The Tribes need to be consulted and collaborated with, in the identification of approaches and methodologies, that would benefit the cultural sites, and also, with the subsequent implementation of said approaches and methodologies.

**Page 9, Angostura Unit and the Tribes**

- 10 The Great Sioux Nation is discussed throughout this section of the document. [On page 10, under Water Rights, the discussion has not identified the fact that the entire Great Sioux Nation has federal reserved water rights to the waters within the Great Sioux Nation as established under the Fort Laramie Treaty of 1868.] Though you discuss the fact that the American Judicial System has settled the issue on behalf of the United States of America, the Tribes of the Great Sioux Nation have not agreed with the 1980 Supreme Court ruling. [You do not apply the Tribal position to the issue of Water Rights. This issue holds true under Trust Assets also. The Water Rights of the Great Sioux Nation to the waters of the entire Cheyenne River drainage, remain unresolved. It is also unclear whether Winters Doctrine rights only apply to the Pine Ridge and Cheyenne River Sioux, as your document indicates. The Lower Brule Sioux Tribe disagrees with this assumption.]

**Page 40, Surface Water Quality**

- 12 [The Lower Brule Sioux Tribe would request that additional data about the Water Quality issues on the Cheyenne River be provided to the Tribe.]

**Page 97, Water Rights**

- 13 The Tribe believes that this section is erroneous. [All of the constituent members of the Great Sioux Tribe hold water rights (including Winters Doctrine Rights) to the entire drainage of the Cheyenne River.]

3

5. As stated on pp. 26-27 of the EIS, two alternatives were developed that would have specifically benefited the OST or the CRST. The *Pine Ridge Irrigation Alternative* was eliminated from detailed study at the request of the OST. The *Hydropower Alternative* was dropped because of an inadequate water supply for power generation at Angostura Reservoir and because hydropower development downstream would have been economically infeasible, eliminated riparian habitat, and would have prevented fish movement. The Pick-Sloan Missouri Basin Program (Cheyenne River Division) authorized irrigation projects on both Pine Ridge and Cheyenne River Reservations, although these haven't been realized.

6. The EIS identified no adverse effects to cultural resources from the alternatives. Any effects would be addressed and mitigated in consultation with the Tribes and SHPO as required by the National Historic Preservation Act (pp. 158-160 of the EIS ). Reclamation concluded there would be no environmental justice impacts (p. 158).

7. The statement in question has been changed in all alternatives to read: "Reserved Indian rights settlement under the Winters Doctrine could affect water available from the Angostura Unit." Reclamation recognizes that the Tribe has unquantified Winters Doctrine reserved water rights. Until the Tribe chooses to quantify these rights, Reclamation can't do more than recognize that these rights exist. Reclamation is unaware of any negotiations between the State and the OST.

8. Noted.

9. The 1992 amendments to the National Historic Preservation Act specify that Federal agencies can use the NEPA process to comply with the act (see the response to your comment No. 6). This act mandates that Federal agencies consult with the SHPO, Tribes, and the interested public on eligibility of cultural resources for the National Register of Historic Places, and on impacts to cultural resources qualifying for the National Register. In accordance with the act, Reclamation is using the EIS to consult on determinations of eligibility for the National Register and on impacts to eligible cultural resources.

The results of the cultural resource analysis are in the EIS. Reclamation inventoried cultural resources on Angostura Unit lands and consulted with SHPO on eligibility of these resources for the National Register. Copies of the inventory report and site forms were supplied to the LBST. Reclamation archeologists have also toured some of the sites with OST elders.

The Ray Long Site is considered to qualify for inclusion in the National Register. Because it is being affected by wave action, Reclamation is preparing to stabilize the site.

10. Pages 9-10 of the EIS discuss the relationship of the Angostura Unit and the Tribes. A detailed analysis of the history of the treaties between the U.S. and the Sioux Nation is beyond the scope of this EIS.

11. The issue is unresolved. Reclamation recognizes that the Tribe has unquantified Winters Doctrine reserved water rights. Until the Tribe chooses to quantify these rights, however, Reclamation cannot do more than recognize that these rights exist.

12. Water quality information used in the EIS was taken from many sources: Department of the Interior; National Irrigation Water Quality Program; EPA; U.S. Geological Survey; and the South Dakota Department of Environment and Natural Resources, as well as from the OST and CRST (see p. 40 in the EIS for a full discussion). All pertinent information was included in the EIS and the accompanying appendices volume.

13. See the response to your comment No. 11 above.

Page 97, Culturally Important Plants

- 14 Although the Oglala Sioux Tribe indicated that they were most concerned with the three species of plant named in the EIS (Silver Buffaloberry, Wild Plum, and Chokecherry). [The Lower Brule Sioux after discussion with several elders of the Oglala Tribe and others feel that there are more than likely dozens of culturally important plants that may be impacted by the O&M of Angostura Reservoir.] The Lower Brule Sioux Tribe suggests that a plant survey be completed, involving Tribes to ascertain the variety of culturally important species, and the level of impacts resulting from the O&M of the Reservoir. Of course, the findings of this survey should be couched as recommendations that will become integrated into both the RMP and the BMP. Has the BOR conducted such a study that the author is unaware of? A few other species which the LBST feel are culturally important include: Bitterroot, wild mushrooms, sweet grass, mice beans, mosses and lichens with medicinal qualities, red currant, black currant, june berry, bush morning glory, sego lily, etc. The Tribe would request that the Lakota name for all species be included as have the fish species (chart on page 99).

Page 98-100, Fisheries

- 15 [At the bottom of page 99 and the top of page 100, there is a discussion of insecticides found in fish. The statement reads that of seven insecticides found in measurable concentrations "six of the insecticides are now banned". If this is attributable to past use how do you reconcile the fact that new generations are showing "measurable concentrations" in their systems? Has there been any analysis to determine if there is an area with greater concentrations, and then further investigations to determine if there is a source continuing to release these chemicals into the river system?]

Page 101-108 Cultural Resources and Paleontological Resources

- 16 [The Lower Brule Sioux Tribe believes that there needs to be a full pedestrian survey of the entire Angostura Unit Area. This survey should include archaeological sites, sites where traditional cultural properties are, Paleontological sites, and sites of sensitive plant and animal communities or ecosystems. This is imperative for the future of above listed resources. We have no doubt that all of these federally protected areas have been and are subject to predation from vandals or thieves. There absolutely needs to be a Cultural/Paleontological Resources Management Plan. This plan needs to be based on sound fieldwork that includes Tribal people (such as Tribal Monitors). The BOR can not be an effective land management agency without this. We request a seat at the table when this Plan(s) are framed, developed, and implemented. Has the BOR consulted with any Tribe on the status of the Cultural Sites located within the boundaries of the Angostura Unit? If not, when will the BOR do so?]

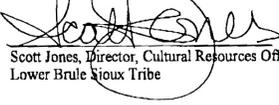
GENERAL

- 17 [The Lower Brule Sioux Tribe is concerned about the number of endangered species possibly located in the Unit area.]

4

- 18 [The Tribe would like to establish a dialogue with the BOR on issues involving training opportunities, cross training opportunities, the establishment of a permanent Tribal monitoring program, and the idea of establishing a coordinated intern program.]

As Prepared for: Chairman Michael B. Jandreau, Lower Brule Sioux Tribe  
By: The LBST - Cultural Resources Office.

Certification:   
Scott Jones, Director, Cultural Resources Office  
Lower Brule Sioux Tribe

14. The OST identified three culturally important plants during scoping meetings (see Table 1.1 of the EIS). Reclamation hasn't conducted a survey for LBST-identified plants that could be affected, but most appear to be upland species not likely to be affected by the alternatives. Lakota names for the three plants will be added to the final EIS as suggested.

15. What is being found is DDE, a decomposition product of DDT and DDD, neither of which have been legally used in the U.S. since the early 1970's. This pesticide is very persistent. (See Appendix Q, p. Q-79, in the appendices volume for a full discussion of organic contaminants found in the samples.)

16. Noted. Reclamation hasn't consulted with the Tribes about cultural resources in the Angostura Unit because there are very few activities in the unit beyond routine farming operations. In case any activities were planned that could affect historic properties, Reclamation would consult with the Tribes.

17. In consultation with the U.S. Fish and Wildlife Service under Section 7 of the Endangered Species Act, 11 threatened, endangered, proposed, or candidate species were determined that could possibly be found in the Angostura area. Reclamation's analysis indicated none of the alternatives would adversely affect these species (see pp. 75-83 and pp. 145-153 of the EIS). The USFWS has concurred with this finding.

18. Reclamation will continue to consult with LBST about the Angostura Unit and other Reclamation projects.

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