

LAKOTA LANDOWNERS ASSOCIATION
PINE RIDGE INDIAN RESERVATION

February 28, 2001

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Re: Comment on the Draft Environmental Impact Statement concerning the impact analyzes of a new long-term water service contract with the Angostura Irrigation District and impacts of water management at the U.S. Bureau of Reclamation's Angostura Unit in southwestern South Dakota.

Dear Sirs:

- 1 In regards to the DEIS, and the slanted demographics and data that are used to reinforce the position of the No Action Alternative, [the Lakota Landowners Association have established a position of support for the Reestablishment of Natural Flows Below the Dam Alternative.]

The Lakota Landowners Association has been in existence since the early 1950's and has become the forum for the Lakota landowners on the Pine Ridge Indian Reservation whose voice's do not possess the technical knowledge, or understanding, of the countless regulations and processes involved in determining the beneficial impacts, if any, of actions and projects undertaken by Federal entities.

Historically, the Lakota have been guaranteed the right to water through Natural Law, and more recently by the promulgation of Federally recognized, constitutionally protected, Supreme Court decisions. One of these being the decision reached in *Winters v. United States* 207 U.S.564 (1908), which is more commonly referred to as the Winters Doctrine.

In Chap. 1, Background, pg. 10, under Water Rights, the research shows that:

States have jurisdiction over adjudication and administration of surface and groundwater outside of the Reservations". Also, that, "Determination of water rights in South Dakota, like in most western states, is based on the appropriative system and the principle of prior appropriation, "first in time, first in right," in which senior rights have priority over junior rights."

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- 2 Through this principle, under which, it should be added, the State of South Dakota issues water use permits, the reinforcement of Indian water claims under the Winters Doctrine cannot be more clearly out-lined. [The Oglala Sioux Tribe has the right to dictate any Water Usage Initiatives that potentially impact the tributaries of the Cheyenne River or affect the quality and quantity of the water contained in the flow of the main-stem, Cheyenne River.]
- 3 [Quantification of these Indian water rights is not the issue that the DEIS should be dealing with and any mention of the absence of this process by the Tribes does not contribute to a professional and equitable understanding of the "prior to state rights" of the Tribes as outlined in the Winters Doctrine.]
- 4 [Section 106 of the National Historic Preservation Act, which requires Federal agencies to consult with Native American Tribes, and to consider the effects of Federal projects, has become a very constructive forum, and allows the Tribes some protections from desecration's of burial sites and sacred grounds as defined by the National Register of Historic Places.] Although the entire area consisting of the Black Hills is considered the birth place of the Lakota/Dakota/ Nakota speaking peoples and as such is the most sacred of sacred sites, the desecration of this area continues regardless of Lawful Treaties and Federally supported acts such as the National Historic Preservation Act and the Native American Graves Protection and Repatriation Act.
- 5 [There is significant bias toward the Reestablishment of Natural Flows Below the Dam in the language presented in the DEIS to impact the decisions of supporters of the No Action Alternative, who might otherwise, at least compromise their views on the position of the Tribes.] Historically, the settlers who have squatted on Indian lands have done so with the support and goodwill of the original inhabitants of this land, the Indians. Yet that goodwill and trust has been continuously violated and extreme liberties in the acquisition of natural resources have been initiated at the expense of the Tribes. When the natural flow of water, for whatever reasons, is disrupted and the flows are changed, the areas impacted by this disturbance will lose the riparian designation. Species of the natural growth will disappear or become distorted and stunted, thereby contributing to the overall decline and contamination of the area.
- 6 In truth, the very existence of the Tribes and Society as a whole, are dependent on the Natural Flows being reestablished. [The Tribes have recognized that throughout time immemorial when the flows of water-ways are channeled away from their natural course, whether by an act of God or by the machinations of mankind, the effect is always disastrous. This can be documented by the obnoxious, unnatural growths on fish caught in the downstream flow and the two-headed snakes being seen downstream of he Dam.]
- 7 [The Lakota Landowners Association takes the position of extreme prejudice against the No Action Alternative and supports the Reestablishment of the Natural Flows Below the Dam Alternative.]

Sincerely,
Guy White Thunder
Guy White Thunder
Vice-President,
Lakota Landowners Association

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1. Your support for the alternative is noted.

2. The discussion on pp. 10-11 of the EIS details appropriation of water in the State.
3. Reclamation stated on pp. 97-98 of the EIS that exercise by the Tribes of their reserved water rights could affect the volume of water in the Cheyenne River available to other users. Other than this acknowledgment, quantification was not discussed in the EIS.
4. Noted.
5. All of the alternatives in the EIS were analyzed in an unbiased manner as prescribed by NEPA. See pp. 56-65, pp. 73-75, pp. 138-141, and pp. 143-145 of the EIS for analysis of the Angostura Unit's effect on riparian vegetation.
6. As discussed on pp. 70-73 of the EIS, lesions on fish caught near Red Shirt were found to be the result of parasites.
7. Noted.