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ANGOSTURA UNIT
CONTRACT NEGOTIATION AND WATER MANAGEMENT

PUBLIC HEARING
ON THE
DRAFT ENVIRONMENTAL IMPACT STATEMENT

* * * * *

February 14, 2001
7:00 - 9:00 PM
Mueller Civic Center
801 S. Sixth Street
Hot Springs, South Dakota

* * * * *

Conducted By:

MR. KENNETH PARR
U.S. Bureau of Reclamation
515 Ninth Street, Room 101
Rapid City, South Dakota 57701

and

U.S. Bureau of Reclamation
Dakotas Area Office
Bismarck, North Dakota

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Wednesday, February 14, 2001

MR. PARR: Good evening everyone. I would like to get started here. I know there's some ranchers and farmers out here that are calving and other activities like that, plus some people who traveled long distances, so I think we'll just get going with our public hearing tonight.

I want to welcome everyone to the public hearing on the Draft Environmental Impact Statement for Angostura. I guess one of the important things is why are we here. Well, basically you all are here to give us comments on the Draft EIS, okay. We're about two-thirds of the way through the process, and I believe everyone here has received a Draft EIS. If you have not, I have extras copies here. If you have not received one, that means you're not on our mailing list, and it's important that you get one and get on our mailing list.

However, if you just want one and do not want to be on our mailing list, feel free to grab one. But the reason why we're here is because in 1995 the contract between the Angostura Irrigation District and the United States Government for water service delivery expired and the Federal Government is responsible under law to renew a contract with the Angostura Irrigation District.

However, one of our responsibilities is to comply with the NEPA process, National Environmental Policy

1 Act. As you know, we are completing an Environmental Impact
2 Statement on that contract renewal. So since 1995 and
3 through 2002 the Angostura Irrigation District is on interim
4 or temporary water service contracts until we complete a 25
5 year long term contract with the district.

6 In addition to the NEPA process is also the
7 contract negotiations, and once we complete the NEPA process
8 we'll enter into a contract negotiation with the Angostura
9 Irrigation District. Two products that will come out of
10 these processes, the NEPA process and contract negotiations,
11 is a record of decision and a new contract. So that's where
12 we are in those processes.

13 Everyone here I believe I've seen before, and so
14 you know where the Angostura Irrigation District is. But I
15 just wanted to orientate everyone to the area that we're
16 looking at, that we're studying or the analysis in the EIS.
17 We start in Wyoming with the drainage area, through the
18 reservoir, the Irrigation District, and down the Cheyenne
19 River to the Cheyenne River Indian Reservation.

20 Just to get us orientated on what we're studying
21 in the EIS, the Environmental Impact Statement process, four
22 years ago we came to you all. We had scoping meetings, okay,
23 and we came to you for ideas, and with those ideas we
24 developed those into alternatives.

25 We started off with seven alternatives looking

1 at an EIS, and then reduced that down to four alternatives
2 that are being addressed in the EIS. From those alternatives
3 we developed a Draft Environmental Impact Statement, which
4 you have now, which you're reading and which we want comments
5 from you on. That comment period is for 90 days and that
6 goes through April 27th.

7 So what we would like from you tonight is later
8 on in the evening when I'm done with my introductions we're
9 going to open this up for you to provide us open public
10 comment. If you do not like that, then we will offer a
11 couple of other alternatives, where you can fill in these
12 comment cards or you can write me or you can call me or you
13 can E-mail me. And we'll get into that in a minute.

14 But after we complete the public review process
15 we'll work on a Final Environmental Impact Statement, and in
16 that Final Environmental Impact Statement will be a selected
17 alternative from those four, or a combination thereof. We
18 did not identify a preferred alternative in that Draft EIS.
19 We were requested not to.

20 So it's out there for your review to tell us
21 maybe which alternative you like the best, or if there is one
22 you do not like. But it's just -- it's out there. We have
23 not made a decision, but we will make that decision in the
24 Final EIS. After we complete the Final EIS, that will
25 basically be out for a 30-day comment period, and that will

1 also include a record of decision.

2 Those are the processes. If you add those all
3 up, I think we added those up last night at the Rapid City
4 public hearing, and that's about seven months out, if I'm
5 lucky.

6 Just quickly here, the Environmental Impact
7 Statement is broken down to chapters and subject matters, and
8 quickly we have the summary, the purpose and need for the
9 project. Okay, the purpose and need for the project is
10 actually the federal action. Okay, the federal action here
11 again to renew the contract with the Angostura Irrigation
12 District. Identified alternatives, we did an analysis on the
13 effected environment, looked at environmental impacts.

14 Then the final chapter is consultation and
15 coordination with all the different agencies, tribes and
16 other entities out there that we consulted with; and of
17 course then the appendices, which is the second document.
18 In the main text of the document is a CD; that's the
19 appendices. If you do not have a computer or do not like to
20 deal with computers, I have that appendices in hard copy.
21 If you want a hard copy, come see me after we're done with
22 the public hearing, I would be more than happy to give you
23 one.

24 We could not have completed the EIS, the Draft
25 EIS without help, okay, and the help we received out there

1 from what's called cooperating agencies. The National
2 Environmental Policy Act and Council for Environmental
3 Quality require us to go out and seek assistance or help from
4 cooperating agencies. We went out and did that. These are
5 the cooperating agencies in alphabetical order.

6 Also, we have a trust responsibility with Indian
7 tribes and a government-to-government trust responsibility
8 with Indian tribes, and also under federal requirements we
9 are required to address Indian trust assets in the Draft EIS.
10 The Oglala Sioux Tribe, the Lower Brule Sioux Tribe and
11 Cheyenne River Sioux Tribe responded to our letters asking
12 them if they want to participate in this process, and they
13 said yes. So they are key components to this NEPA process.

14 I'm winding down on my introductions. Submitting
15 comments, I talked about that earlier. The Bureau of
16 Reclamation and cooperating agencies welcome your comments,
17 all right. We will take your oral comments tonight. They
18 are being transcribed by a recorder. This is Lynne Ormesher.
19 Lynne needs you, we need you, when you provide us an oral
20 comment, to stand up, give us your name, affiliation, speak
21 very loud and very clearly. If you have a soft voice I would
22 be more than happy to loan you this little microphone, okay.
23 However, if you do not wish to give us oral comments, we
24 would accept your written comments, either tonight or on or
25 before April 27th, we'll also accept your comments by mail,

1 excuse me.

2 What I would like to do tonight is after we get
3 done receiving your public comments, I would like to then end
4 the public hearing and either we can initiate just an open
5 dialogue on the Draft EIS, or as you can see we have several
6 stations here. We also brought our technical specialists who
7 participated in the development and the write-up of this Draft
8 EIS.

9 So under the process of contract renewal we have
10 John Boehmke and Dan Lechefsky. They are our regional
11 specialists from the regional office. On environment we have
12 Jerry Heiser from our Bismarck office. Water quantity and
13 water quality we have Conrad Jordheim and Jim Yahnke. On
14 economics we have Steve Piper. And on cultural resources,
15 paleontological resources and Indian trust assets, or we call
16 special considerations we have Kimball Banks.

17 So these people will be at these different
18 stations for you to go visit, talk to them about the data,
19 the data analysis or any other questions or concerns you may
20 have on the Draft EIS. We find that the open workshop
21 session or the open dialogue to be very, very constructive.

22 But you have to have rules. I'm a federal
23 employee, and you have to have rules. All right, I would like
24 to talk a little on the order of speakers here. What I would
25 like to do is start off with Federal, State or Tribal elected

1 officials, and have you give us your comments. Then I would
2 like to have the elders, whether they are Indian or non Indian
3 elders, I would like to give you the opportunity to speak
4 first.

5 Sometimes we get -- I ask for people who wanted
6 to speak to pre-register, in case there were lots of those.
7 Well, we don't have any pre-registered speakers, so we won't
8 worry about that. And since I see everyone in here is young,
9 we're all others then.

10 Let's go over the ground rules a little bit.
11 I'm looking at about a five minute time limitation. So if we
12 go over a little bit, I don't think I will be breaking out
13 the big cane, but let's try and honor about a five minute
14 limitation on your presentation. I don't think I have to
15 worry about this audience speaking out of turn. You all seem
16 to be pretty quiet here, except for me.

17 When you do speak, again provide your name and
18 affiliation for the transcriber. Please speak loudly and
19 clearly. Be concise, and if you have written comments, we'll
20 accept those, but please summarize those written comments,
21 okay? Very good.

22 Just a couple other guests that we have here this
23 evening, I do have Jeff Nettleton, our office manager from
24 Rapid City. And with some of the cooperating agencies, Don
25 Driscoll with USGS; Don Stroup from South Dakota Department

1 of Environment and Natural Resources, Kim Clausen representing
2 the Oglala Sioux Tribe, Harvey White Woman representing the
3 Fifth Member on the Tribal Council.

4 Okay, is there anyone here, any Federal, State
5 or Tribal representatives here from those entities? Okay,
6 and then Lyle Hartshorn, Russell Sanders, Chuck Seger from the
7 Angostura Irrigation District. I guess I've about introduced
8 everyone in the audience.

9 Well, that's what I have for introductions. I
10 know most of you in here weren't shy at the DM&E public
11 hearing, had no problem getting up to the microphone and
12 telling us what you thought at that one. So again, this is
13 just an open forum here to give us your public comments.

14 So what I would like to do here, is there any
15 Federal, State or Tribal elected officials that would like to
16 provide comment at this time? You don't have to come up
17 front, you can do it from your chair, too. You can do it from
18 the back of the room, if you want. Do we have any elders here
19 that would like to speak? Chuck?

20 Okay, now we're going into others here. I don't
21 know where to direct us from now, but is there anyone from the
22 Angostura Irrigation District that would like to provide a
23 comment, and any of the elected members there on the
24 district?

25 Is there anyone from the cooperating agencies

1 that would like to provide a comment? Pat, where are you?
2 There you are. Pat, I forgot to introduce you to Pat Thompson
3 from Angostura State Park. Does South Dakota Game, Fish and
4 Parks want to make a comment tonight? Thank you for coming.

5 I can give you the microphone and you can stand
6 behind here and that will still work, okay. Others? Is there
7 anyone in the audience that would like to give a comment
8 presentation?

9 What is your name?

10 MR. GAMET: My name is Joseph Gamet. I am the
11 only surviving member of the original Board of Directors of
12 the Angostura Irrigation District. I bought my father's farm
13 and farmed out there a number of years. My comment is that I
14 think that -- I thought at the time when we were negotiating
15 with the Bureau of Reclamation and other agencies that we had
16 a problem. I observed the procedures here; I think we got out
17 of it pretty lucky.

18 The original board was saddled with the deal of
19 stating that the farmers applied -- that the water will be
20 applied to their land. The owners of the land elect
21 officials to represent them, before there could be a dam or
22 project or anything else, and Burke Ray was the representative
23 of the district west of Oral. I represented the district
24 between Oral and Cheyenne River and Bill Engbrecht has the
25 district over by Coffee Flats.

1 And we were in the process for quite some time of
2 negotiating with the Bureau for the project, and it was -- we
3 thought it was a problem. We were not versed in reclamation
4 law, and we weren't versed in the foibles of legal
5 gobbledygook, as I call it. Anyway, we did get the job done.
6 The original plan and original reason for the project was
7 irrigation. It was primary. If there wasn't irrigation,
8 there wouldn't be a project; it was that simple.

9 And during the procedures Mr. Raymond Lund from
10 Rapid City brought up the statement that recreation would be a
11 coming thing at this lake. And a young fellow from the Game,
12 Fish department of the state ridiculed the idea. I can
13 remember him very well, he said, Who would want to go there.
14 There's nothing there but sagebrush, rattlesnakes and cactus.
15 I would like to have that fellow sitting over there on a hot
16 July day logging in all the vehicles that go in and out of
17 that project; that would suit me greatly.

18 However, now I see that environmental impact
19 statements were not required at that time. That wasn't a
20 criteria, and now that I can read and follow the procedures
21 of environmental law, if that had been in effect then, we
22 would have never had a project. And not only that, but the
23 legal procedures and appeals and whatnot would eat up all the
24 time and the project itself. I think I've used my time.

25 MR. PARR: Well, thank you for that bit of

1 history. We appreciate that. Yes.

2 MR. FITZNER: Tim Fitzner is my name. We farm
3 on the Angostura Irrigation Project. We also run business in
4 both Hot Springs and Custer, and I want to, like Bob did,
5 give a history of it, because I see Russ Wyatt up there, and
6 between him and my dad, about the only old-timers ever raised
7 on that river before the dam was built, to kind of give a
8 history of what the river was like prior to the dam.

9 And there's a lot of positive things that have
10 gone on, first the benefits to this dam has done is in the
11 '30s, late '30s and early '40s when my father lived out
12 there, the deer populations and that were almost unheard of
13 to see a deer track, and that was a prize possession.

14 Even to see ducks on the river in the wintertime
15 was a very big rarity. They used to hunt and trap clear on
16 down where the original reservoir is coming over and down
17 through the river. So the whole impact area where the dam
18 actually is was their old hunting grounds prior to the dam
19 going in, and the amount of game that's available for the
20 public is just truthfully immeasurable since the dam has gone
21 in.

22 The other benefit that the dam has provided is a
23 very stable water source for the lower river, immeasurable. I
24 have a place on Lane Johnny Creek, and since the '89 fires in
25 Custer Park I have a live stream coming through there, which

1 hasn't been there since 1921 until this year, and the trees
2 are starting back, and it started drying up again.

3 Having a water source go through is absolutely a
4 tremendous -- as my dad used to -- when they worked in that
5 area and traveled down through or even down below Fall River
6 when you hit July and August into the dry months you didn't
7 have to worry about crossing the river. You could hop across
8 it and never get your feet wet. Minimal amount of water that
9 was put in by Angostura was basically the source for the
10 Cheyenne River. The priority water rights on Cascade and
11 Fall River consumed most of those creeks at this time.

12 So the Cheyenne River stood on its own, and the
13 same with Beaver Creek, the priority water right on it
14 basically, but those were not sources of water. By the time
15 you went below John Bardis (sp) and his pump, the Cheyenne
16 River was basically a trickle, and if you had enough to water
17 your cattle you were fortunate.

18 So having that amount of water, and now the water
19 goes through Bardis, in that area it's probably close to 50
20 feet wide and several feet deep, even in the dry months. So
21 having water that goes clear on down through is a far benefit
22 to all the farmers and ranchers that are down there, clear on
23 down the line.

24 I'm back into the amount of wildlife that the
25 project presents and the amount of pheasant hunting would be

1 non existent in southwestern South Dakota without the
2 project. It is that base that keeps the pheasants in the
3 area. It has shelter on the Cheyenne River, the reservation
4 and wastewater and sloughs down there provide protection from
5 the coyotes, and that is one complete recreation sport that
6 would completely cease to exist for the public.

7 The amount of grouse, you know, and deer, the
8 amount, and the mountain lion, the growth of the mountain lion
9 population in the Southern Hills, how far the Game, Fish and
10 Parks want to go with that, we've had mountain lions now for
11 close to ten years out there that migrate in and out. So
12 there's another one of the species, you know, that they are
13 trying to regenerate that is supported.

14 The other night when we were out there we counted
15 over a hundred coyotes howling. The amount of game it takes
16 to support that wildlife and mountain lion is incredible. You
17 figure a deer would feed about ten coyotes. So if you're
18 looking at a hundred coyotes, you're looking as high as ten
19 deer a day to keep that population fed, or rabbits. Without
20 the project you're not going to have the type of wildlife to
21 support that that go along with it.

22 Stabilizing the ag economy is another tremendous
23 benefit to the project. Fall River Feedlot would not exist if
24 it wasn't for the base of that project here when it first
25 started. The hay supplies that comes off of it far supports

1 all the area ranchers onto the reservation in that area, too.
 2 It's the closest available hay support, and transportation
 3 costs are low because it's nearby.

4 And for a lot of us here, we have a lot of
 5 friends that live out there. You know, the ag community
 6 doesn't look at a race, it's who you are, and there's a lot of
 7 mighty fine people that live both on and off the reservation
 8 out in those areas, and they are good friends.

9 Tax base, you aren't going to get anything on the
 10 environmental impact statement. I went down through where my
 11 land is versus what the projects are, and for some reason the
 12 amount of projects has slipped my mind, how many units is
 13 there out there, 105, 110? How many, Russ? How many units,
 14 about 110? There is a minimum increase in taxes on those
 15 versus dry land is at least \$2000.

16 That's not counting the houses and the buildings
 17 that are on basically the land. We're looking at an impact
 18 minimum of a quarter million dollars, as high as half a
 19 million dollars into those two counties that the project has
 20 helped and helped support with the school districts and that,
 21 tremendous amount of impact.

22 Flooding control, there again I still grumble as
 23 much as I have to fix fence in the summer, but if it wasn't
 24 for the dam it would be more tremendous, at least the flows
 25 are evened out and you have a chance, you know, when the level

1 flows down to say 600 foot spillage, you have a chance when
 2 you put your fence in that it will hold and stay.

3 Economic benefit, rounding up cattle, I mean
 4 there's another one that goes all the way down and back into
 5 the days out on Coffee Flats. I'm not sure what years it was
 6 when people lost their lives. I realize the dam wasn't in
 7 there then, but the river has the potential to flood, and
 8 flood big, and people have lost their lives on the Cheyenne
 9 River. There's a benefit that people have forgotten,
 10 especially as these developments that grow, they put them in
 11 to these areas lower down on the river, into these old
 12 floodplains.

13 And I say old, it probably hasn't flooded for 50
 14 years, but without the dam there it's just playing with fire.
 15 It's a matter of time before these areas are going to flood
 16 hopefully with the systems and warnings we won't lose life,
 17 but it is still a possibility that we could still lose lives
 18 once again to flooding on the river. It does have the
 19 potential. It showed it in the past in history.

20 But environmentally what I want to reiterate, the
 21 fishing, the pheasants, the amount of grouse, the amount of
 22 deer, whitetails; there's 150 whitetails and muleys living on
 23 our unit just this winter, another 50 feeding out of Kenny
 24 Rutter's corn pile. But those deer and the ones that feed on
 25 that corn pile, they are going to have twins and triplets

1 because of their energy sources.

2 The grouse, they survive on government pastures
3 fine in the summertime, but come fall and winter they are in
4 on the fields feeding. We see a tremendous reduction in
5 those type of games, and the people that like to hunt them and
6 do that type of sporting activities. So the project is much
7 more than the dam.

8 The other benefit of the dam is you talk to
9 old-timers, the amount of evaporation off the dam that
10 triggers showers in the summertime. There might be a shower
11 a few miles away, but I've seen those showers and
12 thunderstorms go clear over to Pine Ridge and keep rolling.
13 Those would not happen without the evaporation off that dam
14 to get them activated and started.

15 The other thing is the state has a good deal.
16 They don't have to pay to maintain the dam. [This is a project
17 that's been maintained by the farmers and ranchers out there,
18 and at considerable cost.] So I think the state has a good
19 deal in that, and my opinion is just I wish there were other
20 options, but with the three options out there leaving it alone
21 is the most prudent at this time, because the other two I feel
22 are going to damage more for John Q. Public than they will for
23 the farmers and ranchers. That's all.

24 MR. FARR: Thank you. Lance, do you think you
25 need a microphone?

1 MR. RUSSELL: No, I think I can speak loud
2 enough. My name is Lance Russell, and I am the attorney for
3 the District and also the States Attorney here in Fall River
4 County. And I've been going through this process for the last
5 few months with the members of the board and the tribe and all
6 the people involved from the federal government, and I've read
7 almost all of your EIS, Ken, and the things that I want to
8 touch on a little bit are some of the benefits, what we agree
9 with, and then kind of where the District stands on the
10 alternatives.

11 First of all, I want to highlight some of the
12 benefits that we, you know, as a district agree with. We
13 agree with the EIS. We couldn't -- we haven't pointed out
14 anything as of yet that we think is inaccurate or does not
15 give the full picture as to what the District thinks about
16 this. But first of all the original purposes of the dam when
17 it was put together through the Pick-Sloan process, number one
18 was flood control, and number two was irrigation, and those
19 two purposes have been fulfilled by the dam.

20 Irrigation, according to the EIS, generates 2.32
21 million in total regional output for this region. Recreation,
22 which continues to grow, and like Tim and some of the others
23 have said, was kind of a benefit that they didn't really see
24 initially, produces 3.4 million in regional output here in
25 this area.

1. Recreation and fish and wildlife are benefits provided by the Pick-Sloan Missouri Basin Program, of which the Angostura Unit is part. Part of the unit's construction costs were considered nonreimbursable because the reservoir would provide these benefits. Thus, recreation and fish and wildlife have benefitted the irrigators.

Also, it should be noted that the South Dakota Game, Fish, and Parks Department is a member irrigator of the District. Though they irrigate small parcels for wildlife habitat, they pay a fee, like other irrigators, which is used to operate and maintain the unit.

1 I kind of want to go through some of the areas of
 2 the EIS generally and make a few comments. The evidence
 3 articulated in the EIS in regard to water quality all
 4 throughout this document, there isn't anything that is proven
 5 that anything related to the dam or the district has adversely
 6 affected any environmental standards. For instance EPA
 7 standards, or any of the other acceptable drinking water
 8 standards, or other things for the intent of this district,
 9 has not been adversely affected.

10 Water quantity, the evidence shows -- the hard
 11 evidence shows that there's more -- like Tim said, there's
 12 more water in the river than there was prior to the dam
 13 throughout the -- continually throughout the year. And that
 14 was really good on the part of Tim to articulate, to talk
 15 about his experiences as a young boy, that the river could
 16 dry up.

17 And in the EIS it actually states if we went
 18 back to opening the gates of the dam, that at certain times
 19 of the year the Cheyenne River in certain years could just go
 20 dry. And so that's a problem that we think we need to
 21 address. Whether it be wetlands, the addition, the
 22 groundwater flows and the other things that benefit wildlife
 23 and game birds, as articulated in this document, those
 24 benefits, like Tim said, we didn't have as great a number
 25 prior to the dam being in place.

1 As to endangered species, they listed in here
 2 the dam has had no adverse effect to any endangered species
 3 in this area. And as to fisheries, there's been some comment
 4 that the dam has in some way, or the Irrigation District has
 5 adversely affected fish. And this document, especially on
 6 page 23, there's no proof that the District, whether it be
 7 pesticides or anything else that may be a by-product of some
 8 of the irrigation, that it is above EPA levels, or that it's
 9 adversely affecting fish.

2 10 [The District favors the no change alternative,
 11 no action alternative,] and the reasons why are ones that I've
 12 gone through up to this point, there haven't been any adverse
 13 impacts to the environment. In fact, there have been a lot of
 14 positive impacts in regard to wild game and other things.
 15 Also, the stimulus to the economy of this area, and like Tim
 16 said, the feedlot would not be there if they didn't have all
 17 of the feed that's created, the corn and other feed that's
 18 created inside the district.

19 And fourth, you know, more stable flows in the
 20 river than we can prove in the past and the recreation on the
 21 lake just keeps growing. Even under the no action alternative
 22 there's more and more money and more and more people generated
 23 off of the lake. The reason -- one of the reasons why we
 24 decide not to endorse the improved efficiencies alternative is
 25 because the district does not have the ability to pay.

2. Noted.

1 If you look through the EIS, they speculate that
2 it could be anywhere between four and eight million dollars in
3 order to implement efficiencies that would put more water in
4 the river for downstream purposes, and the district has not
5 paid off the original construction cost that they were --
6 well, actually they have paid part of it, but they don't have
7 the ability to pay for the upgrades in the efficiencies.

8 So that's one of the reasons that they were
9 concerned about the improved efficiencies alternative is
10 because it's not -- in some ways the pivots and other things
11 they are suggesting are inadequate for the way in which the
12 project was originally put together.

13 The other two alternatives we're also not in
14 favor of, and I won't go into why. I think for the most part
15 it's obvious, and we will be submitting written comments
16 later, but we are working diligently with the tribe. We
17 actually met with the Oglala Sioux Tribe today. We are
18 having very good conversations with them. We're trying to
19 work towards something that's amenable to all of us. And we
20 continue to work with the Bureau of Reclamation, and they are
21 great to work with and have really been helpful to us.

22 And so we'll just continue through this process,
23 but we agree with most of what was put together in the Draft
24 Environmental Impact Statement and we look forward to the
25 final draft. Thank you.

1 MR. LANG: My name is Earl Lang. I've lived out
2 there by that lake, I guess ever since it was there. My
3 grandparents came here in 1892 homesteaded there on Horsehead
4 Creek. As far as being up and down that river and lake or
5 creek before the dam was ever built, I was up and down it
3 6 many, many times. I worked on the dam when it was built. [The
7 dam itself was built for flood control and irrigation, and I
8 guess my opinion is I think that's what it should be left as.
9 It's done a very good job, brought a lot of revenue to the
10 area. And as far as changing any of the other programs,
11 that's what the dam was built for and that's what I think it
12 should be left as. Thank you.]

13 MR. PARR: The individual in the back there.

14 MR. BALLARD: My name is Russ Ballard, and I
15 have an irrigation project. One of the things that we
16 shouldn't overlook in this country, we get most of our
17 watershed in January, and the fact that our ground is froze
18 and we'll get the January thaw and our snowpack will run off
19 and go downstream, we don't get any benefit out of this
20 water. And if we remove our dam, or don't allow our dam to be
4 21 there, we get no benefits from that. [I would like to see you
22 stay with a no change. It's been beneficial to the community
23 and to the surrounding area.] Thank you.

24 MR. HARTSHORN: My name is Lyle Hartshorn. I'm a
25 landowner and irrigator and president of the irrigation

3. See the response to comment No. 1 above.

4. Noted.

1 board. And I think that Lance and Tim pretty well pointed out
 5 2 a lot of good points, so I won't take up very much time. [But
 3 I would like to see it stay as a no action, no change
 4 alternative.] Thank you.

5 MR. PARR: We have lots of time, another hour.

6 MR. SANDERS: Russ Sanders, and I'm an irrigator,
 7 landowner and board member. I too concur that we should stay
 8 with a no action alternative. It seems to me going into this
 9 contract renewal we agree the tribe has concerns, but this is
 10 not the forum. The contract renewal is not the forum that I
 11 feel their concerns should be addressed to. It needs to go to
 12 Congress. It needs to go to administration. It's above our
 13 level. So I would say stay with the no action alternative,
 14 and move on.

15 MR. DeBOER: My name is Craig DeBoer and we
 6 16 recently purchased a unit out at Oral, unit 28 and 84, and [I'm
 17 in favor of the no action policy.] I think I agree, Tim
 18 Fitzner brought up some points I never even thought about.
 19 But if you want to check like for natural flows, go up above
 20 the dam. Pick a time, any time of the year and there's a
 21 trickle of water going in there. If we had to depend on the
 22 water going into the dam from natural flows, there would be
 23 none. There would be no dam. There would be no use for it.

24 What we do is use the water on the way by. I
 25 mean we catch the excess. The dam catches the excess, builds

5. Noted.

6. Noted

1 up, we run it out on the farms. It trickles through the soil
 2 and keeps the natural flows below the river better than they
 3 have ever been historically. So as far as natural flow
 4 alternative, or letting it go back the way it was, it would be
 5 ridiculous as far as I'm concerned. It's a good thought, it
 6 would be neat to have things the way they were, but in this
 7 instance it wouldn't improve the flows. It would be only
 8 worse, I think. I also own a business that we purchased the
 9 first of May year 2000, and we sell products to farmers and
 10 ranchers. It's no secret that I have a selfish interest in
 11 this. I want to survive, and if we were -- you know, I guess
 12 we don't mind recreation, running boats on there. I mean have
 13 fun, you know. Fishermen, I don't care if you want to fish,
 14 that's fine. You know, you can take your fishing pole and
 15 fish in Angostura. If it gets low, you can go to Deerfield.
 16 You can go to Coldbrook, McConaughy, same with boats.

17 We can't do that. That water is there and it's
 18 the only thing that keeps our land a viable and productive
 19 part of Fall River County. And if that died out, I guess
 20 there's a lot of other things that would follow suit, and it
 21 wouldn't just be farming. You know, there's a lot of people
 22 that depend on that land, or that water and that economy.

23 So I think that's pretty much -- I didn't bring
 24 notes and I should have, but everything gets said so -- but
 25 excuse me while I try to think. I guess I would like to

1 reiterate that no change is what I would be inclined to
2 participate in. Thank you.

3 MR. PARR: Want to take a moment a break here for
4 a second, you know this is not -- we're not here after your
5 vote, okay. The important thing that we're also after is
6 please read the Draft EIS. Provide us comments on that. Send
7 us written comments on that Draft EIS. Tell us what you think
8 about the analysis and the data that's in there, also. I just
9 wanted to make sure when you leave here that we have that
10 understanding between you and I.

11 MR. FITZNER: These guys brought up one thing and
12 a suggestion. I'm not sure the EIS --

13 MR. PARR: State your name for the record again.

14 MR. FITZNER: Tim Fitzner. On most years when
15 the dam fills and the water is stored, there's a tremendous
16 amount of water that still passes through as flood water. And
17 at one time the dam, years ago, and I'm trying to think, it
18 was in the mid '80s, and there was so much water passing over
19 the gates at Angostura it was filling every 24 hours.

20 Now most of the time when the dam fills and
21 natural water is stored, it's just a portion of the actual
22 flood water that actually passes down the river that year,
23 and that needs to be taken into consideration. When you
24 think of the storage, oh, my, they are keeping back 80,000
25 acre feet. Maybe we kept back 80,000 acre feet, chances are

1 if we had storage we could have held back a million acre
2 feet. During those years we're using in excess of excess.

3 If that hasn't been, you know, looked at in the
4 EIS, that is something I think that really needs to be
5 surveyed and looked at because the assumption that we're
6 storing that type of water, in some years we do, but most of
7 the time when that dam fills we're just storing a partial of
8 the excess. And there is tons and tons and acres and acres of
9 feet that go on past the dam that we are unable to store and
10 hold. And as people look at into that light of view, they
11 need to remember that we're just storing part of the excess,
12 not all of it.

13 MR. PARR: Thank you again.

14 MR. GAMET: I don't want to take up any more time
15 really, but I worked as a surveyor on the project, and in 1920
16 I was a little guy, I'm not going to tell you how little, but
17 in 1920 the Cheyenne River washed out everything all the way
18 down. And my folks tell me that they had about two feet of
19 wet snow and about a two inch rain on top of that, and that
20 was in May of 1920, if I remember right.

21 But anyway, in my surveying I came -- I owned
22 land right on the Cheyenne, and in my survey I found a place
23 where my dad had cut a mark on a cottonwood tree on the high
24 side of the high water mark, low side of the tree and cut it
25 in there with an ax, and we were surveying there and I told

1 the boys, I said let's just run a level down to the water
 2 level and see how much water was coming down the river. It
 3 turned out to be 18 and six-tenths feet from the water level
 4 in the river to that mark on the tree. That was three-eighths
 5 of a mile wide. So that's from nothing to 18 and six-tenths
 6 feet with a fall of six feet per hundred feet.

7 Now that water was really moving, and it wiped
 8 out everything, bridges, railroads, bridge at Oral, bridge at
 9 Edgemont, and while that was maybe a hundred year flood, my
 10 reasonable thinking is that the gates wouldn't have handled
 11 that amount of water, and it wiped out everything, trees,
 12 fences, farms, whatever. The record growth along the river is
 13 three or four times what it was before the dam was in, new
 14 growth, and it hasn't been wiped out since.

15 The other problem, the other thing that I
 16 notice, he brought up about the springs. It raised the water
 17 table on my part of the project there. It raised the water
 18 table from about 28 feet to eight feet and a half right where
 19 our well runs. Okay, those springs go out all the way along
 20 the south side, and that water, like they said, was clear on
 21 down. Before then the river never dried up at my place, but
 22 it was close to practically nothing.

23 The water quality isn't as good as it was before
 24 the irrigation. The irrigation did bring salts down to the
 25 water table. It's not bad water, but it isn't as good as it

1 was before. And in the irrigation part of it we had the
 2 underground pipe and the facilities for transporting water
 3 without evaporation, sprinklers, and they could have put that
 4 in for probably two-thirds of what it cost to build it, and
 5 the leveling under the sprinklers would have done so much less
 6 than the total leveling that we did at the time. I worked on
 7 both ends of it. I worked as a surveyor and I worked
 8 construction.

9 And another thing we did, we lined that main
 10 canal with bituminous lining, and that before the lining went
 11 in they turn 50 seconds of water in the dam and it wouldn't
 12 reach my place, the soakage, just seepage. And I shot oil for
 13 bituminous lines and it reduced that leakage along the canal
 14 tremendously. It's a shame that we couldn't have had the
 15 underground lines and underground transfer of water at that
 16 time.

17 I'm one of the few people that have been through,
 18 aside from number three and aside from number four; aside from
 19 number four twice, aside from number three once. I mean you
 20 go in and you go around and clear through it. I don't know
 21 how many have done it since, but it's not the best deal.
 22 Naturally, I'm not irrigating there now, but my stepson Burt
 7 23 Bogner is, and [I would like to see the project remain as near
 24 stable like it is now as it can.]

25 I'm in favor of the recreation, sure, that's

7. Noted

1 fine, but you can't flood. If you can take the top off and
2 let the rest go by it saves a life. If you don't have the
3 water, there is nothing you can do. You can't bring it up,
4 but you can store it from one year to the next. Thank you.

5 MR. PARR: Peter.

6 MR. CAPOSSELA: Thank you, Ken. My name is Peter
7 Capossela. I'm a lawyer for the Oglala Sioux Tribe. I want
8 to reiterate a point that I made last night in the meeting up
9 in Rapid City. One of the things I think that it's easy to
10 understand in terms of the property rights of the Indian
11 tribes is the reservation of land, because you can see it on a
12 map. There's boundaries, and it's real easy to understand.

13 It's more difficult, though, perhaps to
14 understand the reservation of water that comes along with the
15 reservation of land, because you can't see it on a map. It's
16 not as easily defined, yet it's just as real, and it's just as
8 17 much of a property right as the reservation of land. [And when
18 the Indian tribes reserved the land, they also reserved water
19 to go with the land.

20 The problem, though, like I said, it's not on the
21 map. We don't know how much of the water they reserved. We
22 know they reserved the water. There's a reservation of land
23 and there's a reservation of water that goes with the land,
24 but it's undefined, how much of the water the Indians own.]
25 There's no question that they own water.

1 The Oglala Sioux Tribe and the Cheyenne River
2 Sioux Tribe have water rights to the Cheyenne River, but we
3 don't know how much of the water that they own. There are
4 some people in the tribe that say, well, under the treaty we
5 look at the boundaries of the set-aside for the Indians in
6 the treaty, and we own the whole thing. Nevertheless, there's
7 no question that along with the reservation of the land, which
8 is easy to see on the map, there's also a reservation of
9 water.

10 So when the Oglala tribe expresses an interest in
11 the use of the water, they are doing nothing different than
12 what a lot of the folks that are testifying this evening are
13 doing, looking out for their property. And I'm trying to put
14 it in a way that everybody can understand.

15 Another brief point that I want to make is, as
16 Ken had mentioned, back in 1995 the Bureau of Reclamation
17 contacted the Indian tribes, informing them that the water
18 delivery contract for the Irrigation District had expired and
19 soliciting their comment. And the Oglala Sioux Tribe
20 responded that because there's environmental laws in place,
21 they would like to see the environmental impact statement get
22 prepared.

23 There was a meeting in May of 1997 in Rapid City
24 with the Commissioner of Reclamation and representatives of
25 the Oglala Sioux Tribe and Cheyenne River Sioux Tribe, talking

8. Reclamation recognizes that the OST has unquantified Winters Doctrine reserved water rights. However, until such time as the Tribe chooses to quantify these rights, Reclamation cannot do more than recognize that these rights exist.

1 about the Environmental Impact Statement process. And the
 2 head man in the Bureau of Reclamation asked the two tribes the
 3 question, If we do an Environmental Impact Statement what are
 4 we going to do in terms of the water service and the delivery
 5 of water during that time period, and is there any objection
 6 to an interim water contract to make sure that there's no
 7 disruption in irrigation while the environmental study takes
 8 place.

9 The Cheyenne River Sioux Tribe further downstream
 10 objected to the interim water contracts saying no, we have a
 11 treaty. This irrigation project undermines this treaty, and
 12 they objected to the interim water delivery contract. The
 13 Oglala Sioux Tribe did not object to the interim contract. It
 14 did not seek any disruption in irrigation water service during
 15 the environmental studies.

16 So what the Oglala Sioux Tribe is doing is
 17 working with the other cooperating agencies, including the
 18 Irrigation District and the Federal Trustee, the Bureau of
 19 Reclamation, to take a look and see what the environmental
 20 impacts are and looking out for their property interests,
 21 although they are undefined.

22 Also, while they are doing that, trying to be
 23 good neighbors to you folks and ask that there be no
 24 disruption in irrigation water deliveries while the
 25 environmental studies are taking place. And so thanks for

1 letting me make those points.

2 MR. PARR: There's lots of time left. Don't be
 3 shy now.

4 MR. LAUING: I'm Tom Lauing from out at Oral,
 5 South Dakota. I'm on the project. I do six, seven units out
 6 there. I operate them. I raise hay, different grain out
 7 there. I would like to see it unchanged, not only in the
 8 farming, I'm also in the commercial bird hunting, upland bird
 9 hunting and offer hunting to people all over the world that
 10 come in and hunt with me. It brings bird hunting, which is
 11 probably our biggest income to the State of South Dakota that
 12 there is. I'm allowed to take so much, and I've got to leave
 13 that much more out there in the bird hunting. So what I do is
 14 make the population bigger and better.

15 Like Tim had said, the wildlife out there, I'm
 16 going to take some of the credit. The rest of the farmers and
 17 ranchers that's been out there on the project along the
 18 Cheyenne River, the cover, the grass that's untouched in the
 19 summer months when cattle are out on there, grazing lands
 20 provide habitat for all the wildlife.

21 We could go out there tonight with spotlights
 22 and there's probably 200, 250 deer on mine, but it's all the
 23 grain I leave out there. So like I said, my income comes off
 24 of the farming along with the bird hunting. The bird hunting
 25 is a majority of it. I would like to see it stay the same.

1 Thank you.

2 MR. BALLARD: I would like to direct a comment to
3 the lawyer representing the Indian tribe. I'm not quite sure
4 how you're defining water rights, and your property as far as
5 the Angostura. Now the reservation is below the Angostura
6 project, and the way I hear what you're saying is you feel
7 that you're entitled to the water that's above that.

8 But as a property owner, the water that I would
9 retain at the beginning, or in my property with the right
10 through the state, or whatever controls that water right, I
11 would have possession of that, but I wouldn't have possession
12 of all the water that's above that. We're talking clear over
13 into Wyoming.

14 And as far as that goes, my great grandfather
15 and his brother moved over there and they owned a hundred
16 sections at one time and, you know, that doesn't give me the
17 right to claim the upper end of the Cheyenne River. I don't
18 quite see where we're coming from on that, and I would like to
19 have some clarification.

20 MR. PARR: I would like to stay that dialogue
21 until after the public hearing is over with. We can take and
22 address that in two ways -- three ways, actually. I could ask
23 you to read the Draft Environmental Impact Statement and try
24 and understand at least the Bureau of Reclamation's
25 perspective on Indian water rights.

1 Or when we stop, we can end this public hearing
2 and we can have an open dialogue on that, if everyone would
3 like to have that. We did that last night in Rapid City. I
4 enjoyed it, and I think everyone else there did also. Or we
5 have various specialists in here that you can have one on one
6 or couple people to discuss that. And of course we have
7 tribal representatives here tonight that you can talk to about
8 that.

9 I would like to complete the public hearing part
10 first and then we can have further dialogue at that time. So
11 I'm going to stay that discussion until probably anywhere
12 between 8:30 and 9:00. Anyone else?

13 MR. RUTTER: I don't like to get up before a
14 crowd, but I think probably 99 percent of our farmers on
15 Angostura --

16 MR. PARR: Could I have your name, please?

17 MR. RUTTER: Kenneth Rutter, live out at Oral. I
18 think probably 99 percent of the water users here on
19 Angostura, and maybe surrounding, we are probably some of the
20 greatest conservationists around. We love this land and I
21 don't have to tell you that fertilizers, herbicides and
22 insecticides are expensive, and we watch everything like a
23 hawk, because this is our living.

24 And a lot of us, some of them are second
25 generations, and us older guys would like to -- we tried to do

1 a good job of keeping this a good project, and we have a lot
2 of good young people that will probably follow their ancestors
3 tracks. Thank you.

4 MR. PARR: You're welcome. We'll give it a
5 couple more minutes. There we go. Thank you.

6 MR. HAGEMAN: My name is Wayne Hageman, and I
7 never thought about the water like I have until tonight. The
8 watershed provides water. It's held at Angostura Dam, and the
9 irrigation that occurs on the fields and such, the only loss
10 of water that actually happens there is evaporation.
11 Everything else gets back into the river and goes down to the
12 Mississippi.

13 MR. PARR: We could just keep going all night.

14 MR. LAUING: Tom Lauing again from out at Oral.
15 You know what Wayne just got up and said makes a lot of
16 sense. I mean a lot of people have got to go out and take a
17 look. The people that's been out there can understand, but
18 when he says the evaporation, that is true.

19 You come out where I am, I set along the bluff
20 along the Cheyenne River, and with all that sand and gravel,
21 that's why they got a gravel pit out there. The water goes
22 down and it comes out year around out of them draws. It has
23 running water.

24 I have two big draws, one on each end of me.
25 I'm on the tail end of both of them. There's probably two

1 and a half to three acre feet of water that run through there
2 year round, and even more when you're irrigating. That all
3 hits the Cheyenne River and it just keeps going, you know.

4 It's always, for the last 10, 15, 20 years, a lot
5 of people have changed over the years. They think hamburger
6 comes from McDonalds; bread and milk comes from Safeway. It's
7 the farmer and ranchers raising it. We're still feeding this
8 country. A lot of people don't understand that. But it's
9 going to be that way. There's a little bit of self-made
10 stuff, but most of it all comes from farming and ranching.

11 But like I said, our water is year around flow
12 going into the river coming off that sand that keeps running
13 through those cattails. That's it.

14 MR. STOMBAUGH: I am Earl Stombaugh. I live on
15 the other side of the river. I'm a landowner and irrigator.
16 I bought that property in 1955, and I am very, very well
17 satisfied with the irrigation system and the way the flood
18 control is being handled.

19 When I first came up to this area the corn yield
20 was like 40, 45 bushel was top yield. Today we have top
21 yields up into -- very extremes of close to 200 bushel, but a
22 lot of 160, 170 bushel in a good year. That is good for the
23 farmer. It's good for the local economy, I think, and the
24 crops that are sold off this project are good for the people
25 of the surrounding areas.

1 We have a lot of wildlife. We have a lot of
 2 good recreation on the lake, and I believe the irrigation
 3 project with the dam is a plus any way you figure it. I sure
 4 wouldn't want to see the dam opened up and water go down the
 5 river. [I am in favor of the same type of contract that we
 6 had.] I feel it's very beneficial. I think it's helped the
 7 economy in the whole locality, and I believe it will continue
 8 to increase the economy and livelihood of a lot of people.
 9 Thank you.

10 MR. WYATT: I'm Russ Wyatt. I have an irrigated
 11 farm at Oral, and I just think it would be real hard for
 12 anybody to show us how there would be more benefit in any way,
 13 shape or form by changing from what we have now. I think
 14 there will be more people with hunting and recreation, and all
 15 the other things entailed that would be helped with this
 16 versus any of the other plans that are offered. .

17 MR. PARR: I think what we'll do now is have a
 18 little break. I think what we'll do is for right now we'll
 19 conclude the public hearing and take a little stretch, maybe
 20 15, 20 minutes, give you an opportunity to look at the
 21 displays here, talk to some of our staff specialists, talk to
 22 other individuals here, and then maybe I'll just, at about ten
 23 till or five till reconvene to see if there's anyone else that
 24 would like to give a public comment.

25 Please, we have comment cards here. Fill those

9. Noted.

1 out to give us your comments. We have an E-mail address. We
 2 have a WEB site. I have a phone number. Comments are
 3 starting to come in now. We are liking that a lot. So some
 4 good, some not so good, but keep those comments coming in.
 5 Actually it's better if I don't get any comments, then I
 6 don't have a very difficult final environmental impact
 7 statement.

8 However, the other option is we can just sit
 9 here for about the next half hour and have an open dialogue,
 10 if you would like. There was not an issue but a question on
 11 tribal water rights. We can talk about that right now if you
 12 would like, but I want to make sure that the gentleman in the
 13 back gets to talk to the specialist. We have Kimball Banks
 14 back there in the back corner. I think that would be a good
 15 individual for you to talk to, and maybe spend some time with
 16 Peter Capossela and Kim Clausen, too.

17 So take a little break and check back with you in
 18 about 25 minutes.

19 (A recess was taken at this time.)

20 MR. PARR: I would like to reconvene our public
 21 hearing for about five minutes. My microphone is not working
 22 anymore, but I'm sure you can hear me. What I would like to
 23 do is we have about five minutes left, until 9:00 or a few
 24 minutes after.

25 We took a little break, and you had a chance to