



THREE AFFILIATED TRIBES

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Office of the Chairman
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(Bald Eagle)

Comments

Regarding the US Bureau of Reclamations Northwest Area Water Supply Project

Submitted by and on Behalf of the Three Affiliated Tribes
February 7th, 2008

Thank you for the opportunity to provide additional Comments on the Final Environmental Impact Statement Regarding the United States Bureau of Reclamations proposed North West Area Water Supply Project. The Bureau's proposal is of extreme importance and concern to the Three Affiliated Tribes for a number of reasons.

The previous comments provided by Three Affiliated Tribes during the Scoping Period of the EIS have been addressed in the Draft Environmental Impact Statement (DEIS). However, the Final EIS must ensure that the necessary steps are taken to respond to the impacts and concerns of the Tribes.

The Three Affiliated Tribes maintains and reasserts the same comments for the Final EIS that were previously submitted on behalf of the Tribes. Those Comments are specifically as follows:

- Water Rights - The Three Affiliated Tribes has reserved water rights to the Missouri River under the **Winters Doctrine** which have not been quantified and has established pre-existing uses, specifically traditional and cultural uses that will be affected by the NAWS. The Tribe's reserved water rights must be considered and protected under the proposed action.
- Missouri River Depletion - Three Affiliated Tribes depends on Lake Sakakawea is its primary potable water source and needs assurance that water will be available for immediate and future needs of the Tribes. The Tribe recognizes that there will be economic benefits with the NAWS construction however the tribe's ongoing needs must be considered and addressed especially in light of its **Winters Doctrine** rights and should take precedence over *considerations*. The Tribe is entitled to know how the proposed action will impact its needs.
- Funding expended – The funds that have expended toward completion of NAWS must be clearly explained Expended Funding amounts should be analyzed from 1987 to 2008? (20 years) in light of the following:
 - The project was authorized in 1986.
 - The State Water Commission initiated the project 1987.
 - Based on the Final Environmental Assessment (EA) a FONSI was approved in 2001.
 - Construction on a main water pipeline began in spring of 2002.
 - Fall of 2002, Canadian Province of Manitoba filed lawsuit against Dept of Interior.
 - February 3, 2005, the court ordered US Bureau of Reclamation to revisit the FONSI for further environmental analyses.

- A second ruling from the Court in 2005 denied the request for an injunction on construction work allowing construction contracts to continue, at which time construction of 45 miles of main water transmission pipeline moved forward.
 - In 2006, Reclamation began a public involvement program to provide the public, organizations, and government agencies a variety of methods to learn about and development of the Environment Impact Statement.
 - 6 Scoping meetings were held through out North Dakota.
 - 4 Alternatives have been evaluated – no action, basic treatment, conventional treatment or micro filtration.
 - Costs of alternatives for construction and annual OM&R?
 - Reclamation has not identified a preferred alternative until Final EIS.
- The amount of funding expended on this project may include federal, state and local funding sources but the long OM&R costs will affect the Three Affiliated Tribes while to competing for DWRA Appropriations from Congress with US Bureau of Reclamation discretion.
 - It is understood that the necessary environmental work must be completed to comply with federal regulations; however the proposed action will result in environmental impacts to the Three Affiliated Tribes, its rights, lands and members
 - Finally the question needs to be addressed about how can the Bureau of Reclamation determine some of the issues, specifically Missouri River water depletions outside of the scope of the EIS when NAWS' water source is the Missouri River or Lake Sakakawea?

Again, thank you for the opportunity to once again comment and provide our legitimate concerns about the proposed action. We Trust our concerns will be taken into consideration and addressed accordingly.