

May 5, 2006

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Ms. Alicia Waters  
Team Leader NAWS-EIS  
Bureau of Reclamation  
304 East Broadway Ave  
P.O. Box 1017  
Bismarck ND 58502-1017

Re: Northwest Area Water Supply Project – comments for Scoping Period

Ms. Waters:

I am an enrolled tribal member and have continuously resided in the rural Mandaree area on the Fort Berthold Indian reservation for the past twenty-three years. Living in the rural area, I must purchase water for cooking and consumption purposes. I will be adversely affected by the long-term or permanent depletion of Missouri River/Lake Sakakawea water by the Northwest Area Water Supply (NAWS) Project. Other tribal members residing on or near Fort Berthold will suffer as well.

Federal Executive Order 12898 directs federal agencies, including the Bureau of Reclamation, to make environmental justice a priority. As the BOR EIS team leader for the Northwest Area Water Project, you are required to focus your attention on the human health and environmental impacts of the NAWS project on minority populations and low-income communities. You are required to assure that we, as tribal members, will not be disproportionately affected by this proposed project. You are also required to assure that our pre-existing uses and future needs for the Missouri River or Lake Sakakawea water will not be jeopardized.

According to page 1 of the Bureau of Reclamation's NAWS brochure distributed at the scoping hearing in New Town on May 2, 2006, the identified primary and purpose of the Environmental Impact Assessment (EIS) for the Northwest Area Water Project (NAWS) is to

“evaluate water treatment alternatives to minimize the risk of transfer of non-native organisms (biota) from the Missouri River basin to the Hudson Bay Basin.”

On Page 4 of the five-page NAWS brochure was reference to “other issues” including NAWS impact on Indian trust assets. In the scoping meeting at New Town, you and other representatives on behalf of NAWS, were unable to adequately identify any diligent outreach efforts of your agency to assure tribal involvement in the previous Environmental Assessment completed by you.

As Missouri River Basin tribes, the Mandan, Hidatsa, and Arikara tribes of Fort Berthold have reserved water rights applicable to the river. Historically and culturally, our lives have been, and continue to be, intimately connected to the Missouri River. Our reserved water rights have a priority over all other preceding claims - including the proposed NAWS project. We claim our priority to the Missouri River water to meet the immediate and long-term needs of Fort Berthold tribal members.

Pre-existing uses of the Missouri River or Lake Sakakawea by individual tribal members and communities will be potentially jeopardized by the proposed NAWS depletion of lake waters. For both cultural and economic reasons, tribal members depend on wildlife and fish from the Missouri as important sources of food. The lake is a primary source of drinking water for many communities on Fort Berthold.

Earlier this year, Senator Conrad described the accumulating silt build up in the lake as “staggering.” Each year, one mile of silt 140 feet in depth builds up at the bottom of the lake. Due to the long-term drought conditions throughout western North Dakota and the silt build up in the lake, the water intake from Lake Sakakawea for the Mandaree community and the City of Parshall has been problematic in the past few years. It resulted in the lack of a secure access to water for consumption uses. Both drought conditions and the silt build up in the lake continue today.

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Future access to water by Fort Berthold communities and low-income residents will likely continue to be problematic and will be further compounded by the depletion of water by the proposed NAWS project. If finished, the partially built NAWS pipeline will take 26 million gallons of water a day from the lake. In addition, the Red River Valley Water project also proposes permanent access and transfer of Missouri River water to 13 counties in eastern North Dakota and 3 cities in Minnesota. This, despite the fact that the Missouri River or Lake Sakakawea is a finite source of water.

According to the 'Environmental Justice: Guidance under the National Environmental Policy' booklet, "For... participation to be meaningful, the public should have access to enough information so that it is well informed and can provide constructive input." Further, according to the CEQ booklet, "early and meaningful public participation is a paramount goal of NEPA." This component was not met in the NAWS scoping meeting at New Town.

Under the Clear Water Act, antidegradation provisions assure accountability in water management. In the scoping meeting, when asked, you and other representatives on behalf of NAWS were unable to adequately identify any existing water conservation or recycling program by the city of Minot, the largest recipient of the NAWS project. You were also unable to identify any efforts to improve or maximize the management of existing water sources or local aquifers currently utilized by the city of Minot.

The NAWS pipeline was based on a 1997 community needs assessment, which will continue to be utilized for the EIS process. However, when asked during the scoping meeting, neither you nor other NAWS representatives were able to explain or identify a single component of this fundamental document, which is the basis of the NAWS project. This document was not available to us at the scoping hearing, nor is it currently available on-line. I am requesting a copy of the study and any revisions.

When asked, neither you nor the other NAWS officials, were also unable to identify the percentage of Missouri River water that is already appropriated by other entities and that will be appropriated by the NAWS project. I am requesting documentation identifying the percentage of the Missouri River/Lake Sakakawea waters that are appropriated; the percentage that will potentially be appropriated by NAWS, and information of the remaining unappropriated water of the lake.

Other than a general brochure on the NAWS project and a general brochure on NEPA, no other documents were available at the NAWS scoping meeting to facilitate understanding and comment by the local audience which was primarily tribal members of Fort Berthold. I am requesting all NAWS administrative records, preliminary and current studies, correspondence, including the court documents pertaining to the legal challenge by Manitoba Canada. Because the court ruled in favor of Manitoba Canada's legal challenge of the non-compliance with NEPA requirements, NAWS is required to now complete an Environmental Impact Statement.

The NAWS scoping meeting for Fort Berthold was scheduled May 2, 2006, only two days before the deadline for public input and comment. I am requesting that the comment period for the scoping period be expanded to allow the Fort Berthold tribal members input on the range of the EIS. According to the EPA website, an EIS is required for any project which will have a 'significant' impact on the environment. Due to the significant impact of the potential NAWS project, you are required to expand the scope of review for the NAWS project.

We, the local residents of Fort Berthold, will be significantly impacted by the depletion of water. I recommend you complete a scientific study on the impact from the Missouri River/Lake Sakakawea in regards to the remaining water quality after long-term depletion of water.

In the early 1950's, the Army Corp of Engineers dammed the Missouri River and flooded the most productive bottomlands and the communities of Fort Berthold, to create Lake Sakakawea. The water management plans of the US government and the state of North Dakota have already disproportionately impacted us. We were forced to sacrifice for the benefit of others. As BOR EIS team leader, you are required to assure compliance with NEPA and environmental justice standards, and assure that our existing water usage and future water needs on Fort Berthold will not be jeopardized or harmed by the NAWS project.

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