



OFFICIAL FILE COPY  
RECEIVED

APR - 7 2006

REPLY: YES NO

INFO. COPY TO:

DATE	INITIAL	TO
4/7/06	Copied	Signe
4/7/06	Copied	RRT Team

April 5, 2006

CLASSIFICATION

PROJECT

CONTROL NO.

ORDER I.D.

128

**T** RIBAL HISTORIC PRESERVATION OFFICE  
**S** TANDING ROCK SIOUX TRIBE  
Administrative Service Center  
North Standing Rock Avenue  
Fort Yates, N.D. 58538  
Tel: (701) 854-2120  
Fax: (701) 854-2138

Bureau of Reclamation  
Dakotas Area Office  
P.O. Box 1017  
Bismarck, ND 58502-1017

Re: Red River Valley Water Supply Project  
(Herein "RRVWS Project")

To Whom It May Concern:

The Standing Rock Tribal Historic Preservation Office has serious concerns regarding environmental degradation and the potential negative treatment of tribal cultural resources resulting from your project activity.

We welcome the opportunity provided by NEPA to address these issues. Below please find comments regarding the RRVWS Project Draft Environmental Impact Statement. These comments center on North Dakota's preferred alternative of the GDU Import to Sheyenne River (alternative 5.)

(a.) Within Table 25:

The summary of environmental impacts makes it clear that Lake Sakakawea and the Missouri River will suffer from water diversion while Lake Ashtabula and the Sheyenne and Red Rivers will have increased storage and flows.

It is asserted that without the RRVWS Project, water levels cannot be maintained in Lake Ashtabula for the fish and wildlife conservation pool and that increased low flows on the Sheyenne and Red Rivers will occur during a 1930's-level drought. With the RRVWS Project, Lake Ashtabula water levels will be maintained and fish and mussels in the Red and Sheyenne Rivers will benefit.

To the contrary, it is projected that Lake Sakakawea will lose 4.5 inches of water in addition to losses of cold water habitat [We are greatly concerned as the lake's cold water habitat is already considered threatened (page 83).] Inadequate water levels in Lake Oahe will deny a safe elevation over Standing Rock water intakes, and the water level fluctuation will create an adverse effect on cultural sites along both banks of the Missouri River. With the projected decline in water levels, decreased young fish production will also result.

Tim Mentz, Sr. ♦ Tribal Historic Preservation Officer ♦ e-mail: tmentz@westriv.com

Leo Red Horse, Jr. ♦ Program Assistant ♦ e-mail: lredhorse@westriv.com

Wasté Win Young ♦ Tribal Historian ♦ e-mail: wyoung@westriv.com

Byron Olson ♦ Tribal Archaeologist ♦ e-mail: bolson@westriv.com

Mary Wilson ♦ Environmental Protection Specialist ♦ e-mail: mwilson@westriv.com

George Ironshield ♦ Repatriation Coordinator ♦ e-mail: gishield@westriv.com

The anticipated effects of the RRVWS Project on Lake Sakakawea are objectionable: The Missouri River ecosystem is currently unstable, yet it will bear the brunt of this alternative's adverse effects. Because the U.S. Army Corps of Engineers finds these water depletion and negative impacts negligible, the Standing Rock Sioux Tribe requests consultation with the Impact Mitigation Team before and during evaluation of the project's construction site.

Page 83 states:

"Reservoir levels have a significant influence on water quality, with higher concentrations of many constituents during droughts when water levels are low (Corps 2004a)." The Missouri River is in the midst of a six year drought; it is projected that the RRVWS Project will reduce Lake Sakakawea by 4.5 inches. The consequent negative effect on the river's water quality, impacting both the aquatic communities and downstream municipal intakes, creates an unfair burden on tribes downstream who utilize these waters. To establish and maintain fundamental fairness, these consequences must be addressed in an environmental commitment to preserve water quality.

(b.) Within Table 34:

Is the maximum annual depletion from Lake Sakakawea a quantified binding limit or loose projection? Issues of water withdrawal in excess of the project's expectations need to be explicitly discussed and resolved in order to protect downstream uses.

On Page 237:

Our review leads us to conclude that the erosion control measures planned for use during project construction are insufficient for long-term monitoring and stabilization, especially in the case of the Sheyenne River where flow changes are predicted to be gradual (page 150.)

On Page 246:

Both tern and plover habitat will be reduced by 1.89% through the preferred alternative, the only habitat reduction above 0.5% for any impacted specie. The percentage is both high and significant considering that for the piping plover this is the loss of *critical habitat* (Appendix I.) These projections do not account for reservoir habitat. Thus, the project's impact on the Least Tern and Piping Plover is potentially greater than the current estimate.

The Missouri River and its natural environment is a critical cultural and environmental resource for Standing Rock. Restoration efforts are expanding on the Missouri River, particularly with the beginning formation of the Missouri River Recovery Implementation Committee (MRRIC). These efforts are creating an opportunity to re-establish vegetation, ecosystems, and species important to the Missouri River basin and integral to traditional native life. Diverting Missouri River water jeopardizes these efforts.

It is inappropriate for a pipeline project to draw on water from a river whose flows and water levels are reduced by a 6 year drought, declared by Governor Hoeven on March 11, 2005. Restoring the Missouri River Basin and retaining its traditional, cultural, and spiritual meaning to Plains Tribes, demands that the status quo be maintained on the Missouri River until the water flows and levels return to normal.

Additionally, the warning signs of existing mismanagement in the form of the endangered least tern, piping plover, and pallid sturgeon make implementation of a new pipeline project environmentally hazardous.

If Alternative 5 is chosen regardless of these risks, Standing Rock must be involved in the Impact Mitigation Team's evaluations as requested under Table 25.

(c.) Within Table 83:

We note that (295) two hundred and ninety five prehistoric/historic site leads and isolated finds identified have been ignored in the DEIS.<sup>1</sup> The THPO should have been involved in the decision to either abandon or investigate these sites. We are requesting to know who decides what sites are not impacted, in order to better understand the basis of your decision.

The GDU Import to Sheyenne River is ranked third of all the alternatives for the actual number of archeological and architectural sites potentially impacted. It is ranked second for having an adverse impact on archeological and architectural sites<sup>2</sup>. We do not feel that these adverse effects are being fully considered or compensated through environmental commitments.

(d.) Within Table 84:

The six sites listed in the National Register of Historic Places (NRHP) and the 116 eligible sites should be addressed in terms of site preservation rather than mitigation.

The National Register Eligibility of four hundred and eighty two sites is either unknown or unevaluated. Due to the magnitude of unknown/unevaluated sites the THPO is concerned about how the RRVWS Project plans to treat sites without sacrificing good field procedures for time; this issue is highly significant given the potential number of sites that are undiscovered. The THPO wants to be included in the discussions of what specific field procedures and testing standards will be used.

---

<sup>1</sup> Jackson et al, Red River Valley Water Supply Project Class I Cultural Resources Inventory and Assessment, Eastern North Dakota and Northwestern Minnesota (University of North Dakota: 2005) 4.12.

<sup>2</sup> Jackson et al 5.4.

On Page 262:

The attention given to historic site degradation is insufficient: "Archeological sites, particularly prehistoric archeological sites, are most numerous in river valleys and in proximity to other reliable water sources, like lakes."<sup>3</sup> Alternative 5 uses the Red and Sheyenne Rivers for water conveyance, and affects Lake Sakakawea, Lake Oahe, and Lake Ashtabula, creating an exaggerated archeological impact that is of concern to Standing Rock. It is essential that a mitigation plan for the impact of flow changes on river banks, particularly on the Sheyenne River below Baldhill Dam, as well as a mitigation plan for inundation or reduction of water on lakeshore sites, be established in relation to cultural resources. This would include a plan to address looting, vandalism, and site or bank degradation on both known and discovered sites.

In addition, certain sites hold exceptional significance to the tribe. The RRWS Project should plan a route of the pipeline *around* graves, burial mounds, rock cairns, and stone arrangements, in consultation with affected tribes. More generally, the Standing Rock Sioux Tribe requests that Tribal Cultural Property inventories be done on all sites.

The North Dakota Historic Preservation Office listed in the PA cannot dictate treatment of cultural resources. The North Dakota tribes and tribes with Tribal Historic Preservation Office's have legal rights under Section 106 of the National Historic Preservation Act, as amended. This project lies entirely within the ancestral territory of the Great Sioux Nation: it contains the heartland of the Dakotah bands whose descendants are numbered among other member bands of the Standing Rock Sioux Tribe. The Section 106 process including consultation with tribes must be implemented immediately regarding Class II and/or Class III cultural surveys; if it has begun, what was the date and how was consultation undertaken?

Within the procedures discussed in the DEIS, Standing Rock disagrees that, "...all *high potential site* areas that will be affected by the selected alternative should be subjected to intensive, on-the-ground cultural resources [inventory] surveys," (emphasis added.)<sup>4</sup> The entire corridor must receive a Class III inventory as required.

Standing Rock agrees that sites below water level on Lake Ashtabula, which were not covered in the 1970's shoreline survey, should be located, identified, and evaluated<sup>5</sup>.

---

<sup>3</sup> Jackson et al 5.4.

<sup>4</sup> Jackson et al 5.1.

<sup>5</sup> Jackson et al 5.1.

Standing Rock also agrees that, "It is especially important that segments of rivers used to convey water receive comprehensive survey coverage, as well as all major stream crossings."<sup>6</sup>

On Page 264:

How does RRVWS Project plan to alter its operations if future consideration of senior water rights by Missouri River tribes leaves a shortage of water for the project's projected drought needs? In other words, what if there is no longer enough water to share after senior water rights are exercised?

In conclusion, the GDU Import to Sheyenne River alternative appears to endanger many significant cultural resources. However, there is not yet enough information to make an informed decision regarding the total impact.

Proposed solutions to reduce adverse impacts on cultural resources affected by this project, the degradation of river bank and lakeshore historic sites, and Missouri River restoration efforts would be welcomed. We look forward to the completion of a Class III Inventory Survey Report. Once a determination of effects is established, the Tribe is requesting consultation on your draft Class III inventory survey report.

The following is a summary of Standing Rock's requests:

1. A Class III inventory of the entire route
2. Consultation under Section 106 of NHPA
3. Involvement of tribes in developing testing and evaluation procedures
4. TCP studies on all sites with Native American affiliation
5. Tribal involvement in making NRHP evaluations
6. Steps to preserve sites rather than destroy them through archeological mitigation
7. Involvement in evaluation of system wide effects on:
  - a. Cultural resources
  - b. Water resources
  - c. Efforts to reestablish natural habitat

---

<sup>6</sup> Jackson et al 6.1.

Thank you for your consideration of these comments.

Sincerely,

Standing Rock Sioux Tribe

  
Tim Mentz Sr.  
Tribal Historic Preservation Officer

TM/sc

c.c.- Chairman Ron His Horse Is Thunder

Everett Iron Eyes, Water Administrator

Bob Buffalo Boy, EPA

Ira Taken Alive, Tribal Administrator

David Bird, Chairman Economy Committee