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March 16, 2006

Ms. Signe Snortland
U. S. Bureau of Reclamation
P. O. Box 1017
Bismarck, ND 58502-1017

Re: Garrison Diversion

Dear Ms. Snortland:

I am writing to request the Bureau shelve the recently released Draft Environmental Impact Statement ("DEIS") and conduct a truly fair and unbiased assessment of alternatives in serving the water needs of Eastern and North Dakota, including those that "promote" the Garrison Diversion, and those that do not.

The structurally biased DEIS, if allowed to go forward, for the Red River Valley Water Supply Project would strengthen our already staunch resolve to oppose this wholly unnecessary and wasteful project by any means possible. While we support the comments made by the Missouri Department of Natural Resources, the purpose of this letter is to shed light on the massive conflict of interest tainting the DEIS and the wasteful spending proposed by the State of North Dakota's preferred alternative.

I do not blame North Dakota for trying to divert Missouri River water to its arid northeast. This has been a clear goal of the Garrison Diversion Conservancy District board of directors since it first met in 1955. Forty-five years later, on December 15, 2000, however, Congress passed the Dakota Water Resources Act calling on the Bureau for a fair and impartial study of options to meet the water needs of the Red River Valley. The Bureau was authorized to partner with North Dakota on this study, but the evaluation process went awry when the Bureau agreed to work with the Garrison Diversion Conservancy District as the "joint lead" on the study as the District's express statutory charter is to make available within the District "waters diverted from the Missouri River." Section 61-24-01.5, NDCC. It comes as no surprise that the DEIS fails to satisfy the statutory mandate for the sort of "open and public process" that Congress contemplated would yield a full and fair study. Indeed, the die truly was cast in 1955, not 2005, when the District announced that its preferred alternative was to transport Missouri River water to the Red River Valley via a buried pipeline.

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The District's press release announcing its preferred alternative was published on October 7, 2005, but this was old news. Developing an out of basin transfer from the Missouri River has been the District's preferred alternative for fifty years (and North Dakota's since the 1920's) so it came as no surprise to anyone who has followed this issue. Frankly, the District lacked lawful authority to make any other choice.

The District is a creature of statute, with only those powers provided by the statute which created it. See § 61-24-02, NDCC. Those powers, though sweeping, are generally limited when partnering with the Bureau to activities "promoting the establishment, construction, development, or operation of the Garrison Diversion Unit." See, e.g., § 61-24-08.4. Since this is the District's statutory mandate, the alternatives in the DEIS that did not "promote" the Garrison Diversion were off-limits.

Interestingly, North Dakota's highest court has helped clarify the terminology used by the North Dakota legislature to create the District. While the court noted that there was no express definition of "Garrison Diversion Unit" in federal or state law, it expressly acknowledged that North Dakotans knew what that meant.

Since the early 1920's diversion of Missouri River waters into central and eastern North Dakota has involved two schemes: one proposed a diversion in eastern Montana to supply a canal leading into western North Dakota, and the other proposed a diversion at Garrison through canals into central and eastern North Dakota and the Souris and Red Rivers flowing ultimately north into Canada

Barnes County v. Garrison Diversion Conservancy Dist., 312 N.W.2d 20, 22 (N.D. 1981). The court elaborated:

The term "Garrison Diversion" had been used as far back as the early 1920's in connection with proposed diversion of Missouri water to central and eastern North Dakota from a point near the city of Garrison, North Dakota.

Id., 312 N.W.2d at 26. When the District was designated as the "joint lead" on the DEIS, the Bureau knew or should have known that the study had been prejudged to "promote" the Garrison Diversion.

The Bureau's willful blindness to this fundamental conflict - between the Congressional charge for an "open and public process" intended to yield a full and fair study of options and the District's clear and exclusive mission for more than a half-century to "promote" the out of basin transfer of Missouri River water - has produced a one-sided and deeply flawed analysis.

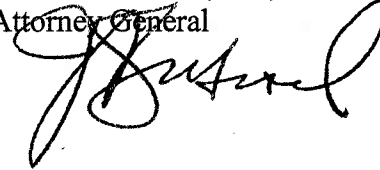
Red River Valley Water Supply Project
March 29, 2006
Page 3

The Bureau continues to stagger towards embracing this immense expensive and destructive boondoggle. The DEIS must be thoroughly redone.

Thank you for your attention to this matter.

Sincerely,

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