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MAR 15 2007

REPLY: YES NO

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CLASSIFICATION

PROJECT

CONTROL NO.

FOLDER I.D.

March 9, 2007

Michael J. Ryan, Regional Director
Bureau of Reclamation
Great Plains Regional Office
P.O. Box 36900
Billings, MT 59107-6900

Dear Mr. Ryan,

The Red Lake Nation ("Nation") is in receipt of your letter dated January 31, 2007 transmitting the Bureau of Reclamation's ("Bureau") Supplemental Draft Environmental Impact Statement ("SDEIS") for the Red River Valley Water Supply Project ("Project"). The Nation has been conducting an extensive and comprehensive review of the SDEIS because of the extremely complex nature of the Project. The Project has numerous and important implications both stateside and internationally, especially as it relates to the Nation, as well as other Tribes, First Nations, and Tribal Trust Resources afforded protection pursuant to the federal government's trust responsibilities.

The Nation's comprehensive review is taking much longer than we initially expected, primarily because the SDEIS alone is over 500 pages, and accompanying supporting documents total thousands of pages. Although the Bureau has taken the position that the SDEIS is simply an updated version of the Draft Environmental Impact Statement ("DEIS"), the SDEIS fails to clearly indicate the changes made from the DEIS. Specifically, the SDEIS lacks specific references to how or where comments to the DEIS may have been incorporated into the SDEIS. As a result, it is necessary for the Nation to review the DEIS along with the SDEIS and all of the supporting documentation in order to determine what changes were made in the development of the SDEIS so that we may effectively comment on the SDEIS. **Therefore, the Nation respectfully requests a minimum sixty-day extension of the Comment Period so that we can adequately prepare our comments on the SDEIS.**

We would also like to take this opportunity to re-state our general opposition to some of the elements in the DEIS, which were incorporated by the SDEIS. First, The Nation continues to oppose the designation of the Garrison Diversion Conservancy District ("GDCD") as the joint lead for North Dakota in the EIS process. The Nation submitted comments on the DEIS to the Bureau in April 2006 that included substantive remarks and legal references explaining why inclusion of the GDCD as a co-leader in the preparation of the EIS is not only unprecedented but presents a conflict of interest that violates the intents and purposes of the NEPA process. *See*

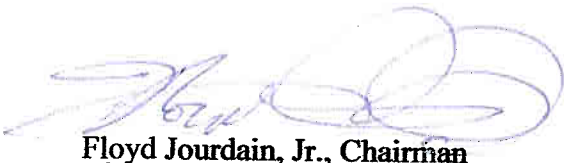
Nation's Letter to Snortland at p. 3 (April 2006). However, the Nation's comments were summarily dismissed in the SDEIS, presumably relying on the supposed suitability of the Bureau's internet-posted response to the Nation's September 2005 comments on the *Draft Report on Red River Valley Water Needs and Options*. In that response, the Bureau simply asserted that "[t]he Governor of North Dakota has the authority to designate the Garrison Diversion Conservancy District to represent the State in this study." The Bureau's response failed to address our legal analysis, which indicates that the GDCD has, in fact, no legal statutory basis to represent the State. Further, the SDEIS neither acknowledges the Nation's concerns expressed during the DEIS comment period, nor does it indicate what the Bureau has done, if anything, to investigate the allegation. In fact, the Bureau has not provided any statutory authority that would enable GDCD to legally represent the State in this matter.

In addition, despite the Bureau's repeated verbal assurances to the Nation, provided as late as December 2006, that a preferred alternative would not be selected within the EIS, the SDEIS clearly states that "[t]he co-leads have identified the preferred alternative as the GDU Import to Sheyenne River." SDEIS page 2-45. The Nation noted in its comments that "[t]he powers and duties of the GDCD are specifically set forth under NDCC § 61-24-08, and are expressly limited to promoting the construction, operation, and maintenance of the Garrison Diversion Unit" and that "the very mission of the GDCD from its inception has been to accommodate the inter-basin transfer of waters from the Missouri Basin into the Red River Basin through the completion of the Garrison Works". See *Nation's Letter to Snortland at p.3 (April 2006)*. Furthermore, we noted that the GDCD stands to benefit financially from a share of monies that may be levied on North Dakota taxpayers to cover GDCD's share of expenditures with regard to the development of a GDU-based alternative. Clearly, GDCD is not able to provide an impartial or unbiased review of the alternatives as required under NEPA at 40 CFR § 1506.5(c). By its very nature, the GDCD is prevented from considering and/or promoting any viable in-basin alternatives. This is further evidenced by the Bureau's selection of an out-of-basin Preferred Alternative despite the substantial environmental consequences, and excessive costs, it poses.

We are deeply troubled that the Bureau has chosen to turn a blind eye to the obvious conflict-of-interest situation referenced above. We are equally concerned that the Bureau has violated its word by designating a preferred alternative, despite the fact that that the Bureau promised the Nation and others that a decision would not be made until after completion of the Final EIS by the Secretary of Interior, pursuant to the DWRA at § 8(d)(1).

In closing, the Nation would like to thank you for your consideration of our request for an extension. We hope that you will look upon our request favorably.

Sincerely,



Floyd Jourdain, Jr., Chairman

Cc: Dennis Breitzman, USBR