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GREAT RIVERS Environmental Law Center

705 Olive Street, Suite 614, St. Louis, MO 63101
(314) 231-4181 facsimile (314) 231-4184
www.greatriverslaw.org
Founding President: Lewis C. Green 1924-2003
President: Kathleen G. Henry
General Counsel: Bruce A. Morrison
Staff Attorney: Henry B. Robertson

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Ms. Signe Snortland
Dakota Areas Office
Red River Valley Water Supply Project
U. S. Bureau of Reclamation
P. O. Box 1017
Bismarck, ND 58502-1017

Great Rivers Environmental Law Center of St. Louis, MO, submits these comments on the Supplemental Draft Environmental Impact Statement for the RRVWSP. Great Rivers is a nonprofit environmental law firm. As our name suggests, we take an interest in the health of Missouri's major rivers.

The SDEIS does not justify the enormous expense and environmental risks of an out-of-basin water supply alternative. We urge the state and Reclamation to select an in-basin alternative.

Purpose and Need. SDEIS p. 2-2 refers to water resource sustainability, yet this project is the antithesis of sustainability. In the old spirit of civic boosterism, it uses inflated projections of population and industrial growth and insists that North Dakota will not live within its ecological means but will take water from somewhere else. It says, p. 2-2, that the region has adequate future water in normal years but will suffer shortages in the event of severe drought, discounting the likelihood that drought will likewise affect the Missouri River basin.

The SDEIS assumes population growth and a 1.75% rate of industrial growth in counties that have been losing population. Appendix C admits that its analysis of the same trends in the Missouri basin is inadequate—"improvised". Furthermore, the option of curtailing population and industrial growth is said to be outside the scope of the study, which is "comprehensive" (p. 2-50). To be truly comprehensive it should consider water conservation and holding regional growth within the limits of carrying capacity. Drawing from the Missouri basin is only one possibility under the DWRA, but the SDEIS treats it as the only real alternative. Thus the purpose and need analysis is flawed.

By using peak-day demand and maximum annual demand (p. 1-5, Table 1.1), the study overstates demand in the Red River Valley.

The Garrison Diversion Conservancy District was a poor choice of partner in the study. It is charged under state law with promoting Missouri River diversions. This bias should have disqualified the District for conflict of interest.

Water conservation. A modest savings of 7–9 gpcd is factored into the alternatives (p. A.1-1) but Reclamation and the state refuse to do more on the ground that North Dakota already has low consumption because of its limited water resource. This is not an explanation of why more conservation could not or should not be done. It is consistent with the bias in favor of an out-of-basin solution. Moreover, the box on p. A.1-1 does not bear out the supposed correlation of low consumption with low supply; it shows high water consumption in arid Wyoming but low consumption in both wet Minnesota and dry South Dakota.

Drought contingency measures were not used in developing alternatives (p. A.1-2). This is astonishing when the avowed purpose of the project is to deal with drought. After demonstrating that drought contingency measures would dramatically reduce construction costs, the Appendix says such measures were not included because of uncertainties about future demand and supply! (p. A.1-4). Such uncertainties do not trouble Reclamation and GDCD when it comes to justifying a $700,000,000 project. To the extent uncertainties exist, they should be resolved before a preferred alternative is selected, or the incompleteness of the information should be justified as required by 40 CFR 1502.22.

Conservation (using less) is almost by definition the least-cost alternative. It should have been given greater prominence for the sake of ratepayers, U.S. taxpayers and the environment. Saying that "we waste less water than Kansas City" (p. 3-15) is no justification for not doing more to conserve. Conservation should have been assessed as an alternative in itself.

Missouri River flows. The Missouri has lost over 20% of its pre-European settlement flow, according to the USGS. Just like the Red River valley, it is currently in a prolonged, 7-year drought that has limited navigation. No mention is made of the spring rises now required by the Fish and Wildlife Service for species protection. The boom in thirsty ethanol plants in the downstream states is another source of significant depletions that should be considered. Effects on flows are consistently underestimated to the point where mitigation is deemed unnecessary because there are *no* adverse effects (p. 4-45).

Appendix C projects future depletions only for municipal use and irrigation. In order to make an apples-to-apples comparison with in-basin alternatives it would be necessary to consider for the Missouri the full range of uses covered by the DWRA: MR&I, groundwater recharge and stream flow augmentation.

Current drawdowns from the Missouri are given as 15.4 MAF and compared to a reservoir storage capacity of 73.5 or 73.4 MAF (pp. ES 35, 4-44, 3-12); but actual storage was only 34 MAF as of March 1, 2007. Additional drawdowns are projected at 557,000 acre-feet (App. C) while the preferred alternative will have the highest drawdown of any alternative at 80,000 acre-feet (App. C-16). This does not justify the conclusion that impacts on the Missouri basin will be minor, even if we accept the understated future demands on the river.

Threatened and endangered species. Of particular concern to us are species also present in Missouri: the least tern, piping plover and pallid sturgeon.

The SDEIS projects reductions of tern and plover habitat as great as 42% in drought conditions. This would be disastrous for species already on the edge of survival. In light of this habitat loss it is disingenuous to claim that these species will *benefit* from drought to the extent that reservoir evaporation will expose some sandbars (p. G.1-8, 1-12-3).

It is inexcusable to present an incomplete evaluation of the impacts on these species and leave it to a biological assessment to be done before the FEIS (pp. ES 45, Appen. G.1). The modeling done so far only compares alternatives with each other and does not forecast the future; the project itself, it is said, will withdraw only relatively small volumes of water (p. G.1-7). This fails to assess the overall or cumulative effects on the species. These are likely to be substantial for the reasons given above under "Missouri River flows."

Appen. G.1-9 says few pallid sturgeon are present in the northern reaches of the Missouri. The EIS should consider the impacts of the project on sturgeon in downstream states like Missouri.

Preparation of a DEIS is supposed to be concurrent and integrated with Fish and Wildlife and endangered species processes to the fullest extent possible. 40 CFR 1502.25. Deferring preparation of this aspect till the FEIS, when commenting is merely discretionary, circumvents the commenting procedure for a DEIS. 40 CFR 1503.1(b).

Invasive species. The preferred alternative has the highest risk (Table 4.58). Even if the risk of introducing species into the Hudson Bay watershed is low in terms of probability, it is high in terms of magnitude, and possibly irreversible. Restoration is considered only for Lake Winnipeg (p. 4-120). The risk of system failure (the "bathtub curve") shows a need of redundancy and increased monitoring. "Adaptive management" (p. 4-3) in this context—seeing how it goes and adjusting to problems after they arise—does not look like a way to avoid catastrophic risk.

Global warming. The SDEIS refuses to consider the prospect of climate change on the grounds that it is speculative and would occur independently of the project (ES 16). As to the latter argument, an EIS is hardly free to ignore how background conditions will affect an action.

While it is trickier to model the regional, as opposed to global, effects of warming, certain predictions are confident enough to require attention. First, the melting of glaciers and reduction in snow pack are global impacts that are already being observed, including in the Rockies. The Missouri River headwaters are reliant on these sources for an ample and steady flow. Aggravating the reduction in melt water is the probability of increased drought interspersed with flood-inducing rainfall, which is a very inferior way to recharge a river. The likely impacts, including cumulative effects, of global warming should therefore be assessed.

Noncompliance with regulations. Great Rivers sees no discussion of the energy requirements of the alternatives, which may be substantial for pumping water. These requirements must be considered under 40 CFR 1502.16(e).

The SDEIS has not singled out for discussion, or dealt with in any systematic way, the issues of short-term uses versus long-term productivity, or the irretrievable or irreversible commitment of resources, as required by 40 CFR 1502.16.

In addition to the incomplete treatment of endangered and threatened species, the SDEIS proceeds with incomplete information about the very substantial costs of water treatment to prevent introduction of invasaive species (pp. 2-18, 2-19) and about mitigation measures for the preferred alternative (p. ES 46). If discussion of reasonably foreseeable adverse impacts is essential to a reasoned choice among alternatives, the lack of complete information must be justified on the grounds that it is unavailable or the costs of making it available would be exorbitant. 40 CFR 1502.22. The SDEIS has not complied with this rule.

An EIS must consider cumulative impacts. We find it incredible that the SDEIS says there will be no cumulative effect on threatened or endangered species (p. 4-184) or on social and economic matters (p. 4-244).

Thank you for considering these comments. I have submitted them by e-mail on the same date as this letter in order to meet the deadline.

Henry Robertson

Henry Robertson
Great Rivers Environmental Law Center
705 Olive Street, Suite 614
St. Louis, MO 63101
(314) 231-4181
(314) 231-4184 (facsimile)
hrobertson@greatriverslaw.org