

The Bureau's failure to deal with this conflict at the outset, and to continue to avoid dealing with - or even addressing - the conflict after my letter and others detailing it, is arbitrary and capricious, if not outrageous. The conflict taints the entire process. Until this failure is remedied, any alternative chosen will be subject to immediate and vigorous challenge.

I am also troubled by the Bureau's apparent disregard for the residents of the Missouri River Basin. The Bureau simply ignores the primary purposes of the Missouri River system as established by Congress and affirmed by the United States Court of Appeals for the Eighth Circuit, navigation and flood control, and all of the secondary uses on which those who live in the Basin rely. The SDEIS cites as a disadvantage of the Red River Basin Alternative that water supply from Minnesota groundwater sources may be limited in a drought because of prior competing uses. Yet nowhere in the discussion of the out-of-basin alternatives does the Bureau discuss the prior competing uses of the Missouri River water. In a drought, even the current one (far less severe than the 1930's drought you modeled), all uses of the river are limited. If the diversion is somehow exempt from those limitations, you should say so, and explain why.

Instead, you apparently assume that water users in the Red River Valley will have rights at least equal - if not superior - to those in the Missouri River Basin. If this is your assumption, it should be stated expressly and the legal basis fully documented. I can assure you that there are millions of individuals and businesses in the Missouri River Basin who would want to know that information and who will not lightly suffer that result. If this is not your assumption, then those limitations must also be considered a disadvantage to the out-of-basin alternatives.

Yet another slap in the face to Missouri River Basin residents is the cavalier attitude the SDEIS takes toward the potential destruction of critical Missouri River habitat of Endangered Species Act protected species: the interior least tern and piping plover. The SDEIS acknowledges that the preferred alternative could destroy as much as 42% of such habitat. Nevertheless, the Bureau does not consider this important enough to even include the mitigation costs in its cost/benefit analysis prior to selecting the preferred alternative. The people of Missouri and the other Basin states have witnessed first hand the many millions of taxpayer dollars that have been spent to create habitat for these protected species. To dismiss the destruction of more tern and plover habitat and suggest that recreating it with many millions more taxpayer dollars is beneath your consideration is, frankly, insulting.

In fact, it demonstrates that the SDEIS is not the "hard look" required by NEPA, but is instead an attempt to justify a preordained conclusion - a conclusion mandated by

North Dakota law when the District was made a partner in the analysis. No other result was possible under the structure adopted by the Bureau. Now all that is left is for the Bureau to attempt to disguise that fact in the desperate hope of withstanding the litigation that is sure to follow if it continues down this path.


It is not too late to save this process, but drastic action must be taken. First, the District must be removed from the decision-making process. Second, the Bureau must undertake an honest analysis, using the data and assumptions suggested by the Missouri Department of Natural Resources and others. Third, using that analysis, the Bureau with the Fish and Wildlife Service must complete a thorough evaluation of the impacts of the alternatives on endangered species and the costs of mitigating those impacts. Then - and only then - will the Bureau be able to do a true cost/benefit analysis and select a preferred alternative based on sound science, accurate accounting, and the best interests of the residents of the Red River Valley and the Missouri River Basin, and the taxpayers of the United States.

There are other legal issues too numerous to analyze and discuss in the short period provided for comments. Therefore, I hope that you will grant the previous request to extend the time for comment for all Missouri stakeholders.

Thank you for your attention.

Sincerely yours,

JEREMIAH W. (JAY) NIXON
Attorney General



JOSEPH P. BINDBEUTEL
Senior Chief Counsel
Agriculture and Environment Division
(573) 751-8370

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