

# **Responses to Manitoba Wildlands**

## **Comments on the Draft Report on the Red River Valley Water Supply Project Needs and Options**



October 3, 2005

Red River Valley Water Supply Project  
Bureau of Reclamation  
P.O. Box 1017  
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USA

**Re: Comments – Reclamation: Managing Water in the West – Draft Report on the Red River Valley Water Needs and Options**

We are writing to provide comments on the draft report prepared by the Dakotas Area Office, Bureau of Reclamation, U.S. Department of the Interior entitled, *Reclamation: Managing Water in the West – Draft Report on the Red River Valley Water Needs and Options* ('Draft Report'). We wish to endorse comments provided by Friends of the Earth (FOE) Canada in their September 27, 2005 submission and those of Adèle M. Hurley of the Program on Water Issues, Munk Centre for International Studies (University of Toronto). We are also providing some additional comments.

The options put forward in the Draft Report are incomplete. Options that include contributions resulting from significant water conservation measures and other options not dependent on major infrastructure are omitted from the report. The report does not adequately justify the presentation only of options that involves diversion and alteration of natural flows.

Some additional comments on specific issues are provided below.

***Inter-Basin Transfer of Water***

The Draft Report presents seven options for meeting projected US Red River Valley water needs to the year 2050. The options studied include two in-basin solutions, a Lake of the Woods diversion option, and four Missouri River diversion (inter-basin transfer) options (Draft Report, pg. 4-28 to 4-35).

We wish to voice concerns regarding the inter-basin transfer of water. For ecological reasons Manitoba Wildlands does not support the inter-basin transfer of water. Inter-basin diversions are problematic in that environmental effects are unpredictable, and there is always the possibility of transference of foreign/alien biota and invasive species, not to mention pathogens that may not be present in the destination basin. This risk is present regardless of the use of filters or other infrastructure designed to inhibit such transfers. Increased water transfer, inter basin or not also increase the pollution load on the Red River, and subsequently on Lake Winnipeg.

In addition to ecological and biological effects downstream in Manitoba, water flows would be altered, which raises concerns regarding impact on flooding patterns north of the border.

# Responses to Manitoba Wildlands

## Response to Comment 1

The purpose of the proposed action is to meet the “comprehensive water quality and quantity needs of the Red River Valley” [DWRA (Dakota Water Resources Act) Section 8(c) (2) (A)] through year 2050. The needs are defined by DWRA as MR&I (municipal, rural, and industrial) water supplies, water quality, aquatic environment, recreation, and water conservation measures [DWRA Section 8(b)(2)].

Reclamation quantified these needs in the *Final Report on Red River Valley Water Needs and Options* (Needs and Options Report), which is a needs assessment and engineering study. A multi-step process was used to identify alternatives for further study in the DEIS (draft environmental impact study). Alternatives were formulated through a systematic process using public involvement, technical information, interdisciplinary and interagency discussions, and professional judgment. NEPA (National Environmental Policy Act) and Council on Environmental Quality regulations require agencies to evaluate a range of reasonable alternatives. To be considered reasonable, an alternative must: 1) meet the identified purpose and need for action, to a large degree and 2) be practical and feasible from a technical and economic standpoint. Reclamation has met the appropriate standards.

If you aware of an alternative that we overlooked that would meet “comprehensive water quality and quantity needs of the Red River Valley,” we would appreciate receiving a more detailed description of that alternative.

## Response to Comment 2

Reclamation has incorporated biota treatment plants to address the import of Missouri River water in chapter four, pages 4-6 through 4-9 in the *Final Needs and Options Report*. Reclamation also produced a study called *Water Treatment Plant for Biota Removal and Inactivation Preliminary Design & Cost Estimates, Red River Valley Water Supply Project* that describes these plants in more detail.

All of the options identified in the Needs and Options Report that would use Missouri River water would include treatment and control systems that would minimize the risk of biota transfer. Reclamation has evaluated and has disclosed the risks and potential impacts of interbasin biota transfer in the DEIS. These analyses indicate that the risk of biota transfer through project-related pathways would be very low with the control systems proposed for the Missouri River import options.

## Response to Comment 3

The Draft Needs and Options Report does not address environmental impacts; it is an assessment of needs and an engineering study to identify potential options for the Project. The DEIS evaluates and documents environmental impacts. We note that the statutory provisions of NEPA (and the Council on Environmental Quality’s regulations implementing NEPA) do not require assessment of environmental impacts within the territory of a foreign country. However, as a voluntary measure, the DEIS includes information on impacts of the proposed action that may affect areas within Canada solely because of the unique aspects of the Project (including, for example, an alternative that involves a lake straddling the international border).



### *Transboundary Obligations – Boundary Waters Treaty, Devils Lake Draft Agreement*

The Red River, which terminates in Lake Winnipeg, whose waters flow into Hudson Bay (Manitoba) is the destination for water in all of the options proposed in the Draft Report. The Red River is a transboundary river and as such, the options proposed in the Draft Report raise transboundary, and international issues.

It is our position that any inter basin transfer options must be referred to the International Joint Commission (IJC) for review as a matter of principle and in the interests of promoting and fostering Canada-US relationships, while upholding this century old successful treaty between our countries.

However, in addition, the State of North Dakota is well aware of Canada and Manitoba concerns regarding inter-basin transfer of water from the Missouri basin into the Red River. The draft agreement between United States and Canada, North Dakota, Minnesota and Manitoba on the Devils Lake outlet (<http://governor.state.nd.us/media/news-releases/2005/08/050806.html>) that would transfer water from the Missouri River into Manitoba is explicit. Although this agreement does not speak to other projects and initiatives involving inter-basin transfers, the options put forward in the Draft Report violate the spirit and intent of this summer 2005 agreement.

We note that the “Lake of the Woods” option outlined in the Draft Report would trigger the Boundary Waters Treaty and necessitate a referral of the project to the IJC for full review.

### *Conservation Measures*

We were surprised at the low levels of anticipated savings from greater water efficiency and further conservation measures of 6% to 9% presented in the Draft Report. Comments forwarded by R. I Pentland concerning the engineering assumptions in the draft report, especially in terms of assuming increased water use and equal increase in supply also suggest that alternatives need more careful study.

The list of conservation measures in this report is quite modest in scope and in detail. Independent analysis of aggressive and substantive conservation measures and demand-side management should be undertaken and reflected in the next version of the Report.

### *Climate Change*

As noted by Ms. Hurley (Munk Centre for International Studies), the Draft Report does not even attempt to address the effects of climate change. In light of the overwhelming scientific evidence and the acknowledgement concerning climate change by G8 countries at the summer 2005 meetings the possible impacts of climate change on the project AND the possible effects of the project on climate change should have been discussed in the Draft Report. This is a serious deficiency in the analysis.

### *First Nations / Tribal/Aboriginal Rights and Consultation*

Full and formal consultation must occur with First Nation and Aboriginal peoples on both sides of the Canada-US border that will be affected by potential water diversions to meet US Red River Valley water needs. No mention is made in the Draft Report of activity to consult with First Nations and

Manitoba Wildlands continues the work of WWF Canada and Nature Canada for establishment of Manitoba Protected Areas.

# Responses to Manitoba Wildlands

## Response to Comment 4

As required by DWRA (Dakota Water Resources Act), prior to construction of any water systems that would deliver Missouri River water into the Hudson Bay basin, the Secretary of the Interior, in consultation with the Secretary of State and the Administrator of the Environmental Protection Agency, must determine that adequate treatment can be provided to meet the requirements of the Boundary Waters Treaty. Any treatment plant constructed under this project to meet Boundary Waters Treaty requirements would be owned and operated by Reclamation.

## Response to Comment 5

Please refer to the response to comment 4. The Lake of the Woods treaty between Canada and the U.S. is entitled “Convention and Protocol between His Britannic Majesty in Respect of the Dominion of Canada and the United States for Regulating the Level of the Lake of the Woods, and of Identical Letters of Reference Submitting to the International Joint Commission Certain Questions as to the Regulation of the Levels of Rainy Lake and other Upper Waters.” We recognize that diversions from the lake must be approved by the United States or Canada within their respective territories and by the International Joint Commission.

## Response to Comment 6

Water conservation is included in all Project alternatives as a feature (see chapter four). Water conservation water savings in the Needs and Options Report are based on results of the WCPA (*Water Conservation Potential Assessment, Final Report*) (Reclamation 2004b). The WCPA evaluates potential water conservation measures and identifies reasonable and achievable water reduction activities for the Project. This draft WCPA was reviewed by stakeholders and peer reviewers.

The water systems in the Red River Valley already have made significant progress on water conservation in the last 10 to 15 years. This is due direct actions of the water systems by metering service connections, monitoring water use, repairing and replacing pipelines, and effectively managing their water systems. There are also regulatory requirements that have resulted in installation of water efficient plumbing fixtures that have significantly saved water. Water savings in the last 10 to 15 years are estimated between 5.0 gpc/d and 37.3 gpc/d or 4.3% to 33.2%, depending on the water system. These existing water conservation savings are the foundation that the WCPA built upon in identifying reasonable water conservation measures to pursue through 2050.

## Response to Comment 7

Reclamation evaluated the effects of climatic cycles on streamflow within the Red River of the North Basin in the Needs and Options Report through an assessment of drought occurrence. This study, *Red River Valley Climate Study On Drought Frequency Investigations of the Red River of the North Basin* provides an understanding of the nature of drought conditions in the Northern Plains, a ranking of droughts over the past century, identifies the minimum threshold precipitation to define 25-, 50-, and 100-year droughts, and establishes a drought scenario that can be used to consider future hydrologic streamflow situations of a severe sustained drought. Results of the study indicate that a drought of the magnitude and intensity of the 1930's is a realistic and statistically significant representation of an extreme drought, in that it typifies an extreme event that could occur by 2050. Using a 1930's drought as a baseline for assessing water shortages provides necessary precipitation statistics to characterize a future drought over an extended drought period and of sufficient spatial extent to consider the impact on adjacent basins.

While research has increased our understanding of climate change, uncertainties remain. The complex nature of drought events does not permit reliable forecasting of their occurrence, duration or intensity. However, based on the best available information, it is only a matter of time before an extreme drought reoccurs across the Red River Basin. Planning and preparation for this drought is appropriate and prudent given the major impact it will have upon all facets of human and environmental resources in the region.

## Response to Comment 8

The Draft Needs and Options Report does not address environmental impacts; it is an assessment of needs and an engineering study to develop potential options for the Project. The DEIS evaluates and documents impacts. We note that the statutory provisions of NEPA (and the Council on Environmental Quality's regulations implementing NEPA) do not require assessment of environmental impacts within the territory of a foreign country. However, as a voluntary measure, the DEIS includes information on impacts of the proposed action that may affect areas within Canada solely because of the unique aspects of the Project (including, for example, an alternative that involves a lake straddling the international border). Tribes within the U.S. have and will be consulted per Executive Orders, the National Historic Preservation Act, and policies regarding tribal consultations.



Aboriginal peoples. Such consultation must be appropriate, meaningful, and acceptable as defined by the First Nation. Resources should be provided to enable review and constructive input by First Nations and US Tribes before the next version of this report is finalized.. The Bureau of Reclamation should make public their activity to date in this respect.

### *Transparency*

Transparency – timely and comprehensive access to information – is key to a credible process to determine future water needs and options for the US Red River Valley. This means making available not only reports and other documentation, but providing access to other key reports, studies and research that is the basis for these reports/documentation. Public comment periods must be sufficient to allow review of materials and be reflective of the scope of the report under review, and reflective of the full range of stakeholders.. Access to information should be via internet posting in some form of a public registry AND making hard copies available in regional offices as well as on request.

Decisions and reports would also include a process to disclose how and whether public comments are considered and reflected in decision-making. This is essential to maintain trust and demonstrate a commitment to meaningful and respectful dialogue with the affected public.

### *Other Issues*

We are aware that other parties have raised questions regarding the level of involvement of the Garrison Diversion Conservancy District in the Draft Report, given its vested interest in the outcome of the Red River Valley Water Supply Project. Although we are not in a position to comment on this issue, we strongly support the principles and practice of making every effort to achieve independence and eliminate bias. Interests and biases should always be disclosed in the interests of fairness. Failure to notify stakeholders, or affected communities regarding meetings, technical review schedules, contracts etc reflects badly on the validity of the report in question. Those who will benefit from certain options need to make sure that all parties, all stakeholders are included in review, and access to information.

We expect that our comments will be publicly available along with all other public comments on the Draft Report and that there will be formal communication with the public as to how our comments were considered and reflected in the final report on Red River Valley Water Needs and Options. Please notify our office regarding the public registry for this review process.

Yours truly,

Gaile Whelan Enns  
Director, Manitoba Wildlands

# Responses to Manitoba Wildlands

## Response to Comment 9

All of this information is available at our websites at [www.rrvwsp.com](http://www.rrvwsp.com) and <http://www.usbr.gov/gp/dkao>. Two teams of stakeholders (Technical Team and Study Review Team) were formed to incorporate public involvement in study planning. Gubernatorial designees from states that could be affected by the Project and other representatives of federal, state, local agencies, tribes, and environmental groups were invited to serve on the teams. In 2003, the Study Review Team was combined with the Technical Team. Technical Team members reviewed and commented on plans of study and draft reports. Organizations and agencies whose representatives attended Technical Team meetings are listed in table 1.3.1. of the Final Needs and Options Report. The Draft Needs and Options Report was distributed to the Technical Team, the public, federal agencies, and potentially affected States for a 120-day review. Comments received from reviewers were given serious consideration and were used in preparing the Final Needs and Options Report.

Public involvement extended beyond the Technical and Study Review Teams. Reclamation, with the assistance of the North Dakota State Water Commission, conducted water users meetings in eight communities in the Red River Valley during October 2002. The purpose of these meetings was to present information about the studies being conducted for the Needs and Options Report and solicit the assistance of local communities in these efforts. This also gave the water users an opportunity to learn about previous Reclamation Red River Valley studies and to provide comments. Comments received during these meetings and during public scoping of the DEIS were taken into consideration and assisted Reclamation in developing the options described in the Final Needs and Options Report.

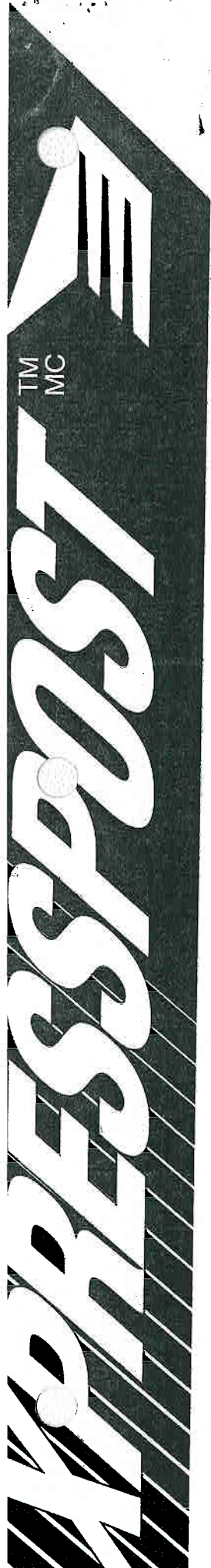
## Response to Comment 10

Section 8 of DWRA directs the Secretary and the state of North Dakota to “jointly prepare and complete a draft environmental impact statement concerning all feasible options.” Garrison Diversion was appointed by the Governor to represent the state in completion of the EIS. As such, Garrison Diversion has been involved with the Needs and Options Report as a member of the Technical Team. The agency has also participated in preparation of the DEIS as the representative of the state of North Dakota.

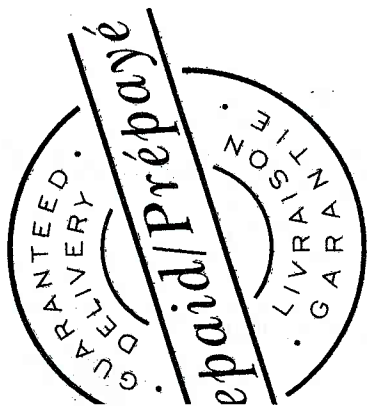
## Response to Comment 11

Because of schedule for distribution of the Final Needs and Options Report in November 2005 and the public release of the DEIS in December 2005, there was insufficient time to prepare formal responses to comments on the Draft Needs and Options Report. However, we did carefully consider all comments and made revisions to the Final Needs and Options Report and DEIS in response to comments. We also posted all written comments on our web site, [www.usbr.gov/gp/dkao](http://www.usbr.gov/gp/dkao). Formal responses to comments are now also posted on that web site.





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