

Responses to Neil Stessman

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

Red River Water Supply Project
Bureau of Reclamation
P. O. Box 1017
Bismarck, ND 58502-1017

September 28, 2005

Subject: Comments on Draft Water Needs and Options Report

The Red River Valley Water Supply Study got off to a quick but particularly unfortunate start. It was one which confounded the intent of the law and seriously delayed the overall progress of the study. The Bureau of Reclamation (Reclamation), which was being trusted by the United States Secretary of the Interior to conduct the study, violated the clear intentions and specific directions of the Dakota Water Resources Act (DWRA).

DWRA, passed by Congress in 2000, made it clear that the Secretary was responsible for the conduct of the study. In direct conflict with those instructions, Reclamation entered into a formal agreement which gave control of the complete process to a three-member Study Management Team. The Study Management Team consisted of the Manager of the Garrison Diversion Conservancy District (GDCD), The Director of the North Dakota State Water Commission, and Reclamation's Area Manager. The former two persons had long been stalwart advocates for the development of project features and facilities and, as principal managers of their respective organizations, carried strong statutory admonitions under the North Dakota Century Code to promote the diversion of waters of the Missouri River to the eastern part of the state. Thus, Reclamation had conveyed a majority of the control of the Red River Valley Water Supply Study to resolute project advocates.

The establishment of the Study Management Team was a clear violation of admonitions in the Dakota Water Resources Act calling for objectivity, ensuring that the water supply study would be the responsibility of the Secretary, not project advocates.

The Study Management Team was imperious and authoritative. They held meetings without providing agendas in advance. Formal and official meetings were conducted without notice being provided. Apparently, advocates and potentially benefitting agencies did attend but others from the Study Review Team and the Study Technical Team could not attend. We were, in fact, specifically told that while the meetings were open for attendance we would not be provided with agendas in advance and we would not be informed of the time or the location of meetings.

Eventually, Reclamation seemed to recognize that their Memorandum of Understanding and the advocate-dominated Study Management Team were contrary to the law. In a letter dated August 15, 2002 Reclamation advised that both had been abolished. Finally, after a lengthy hiatus, a Technical Team meeting was hosted by Reclamation on September 9-10, 2002. It was announced that a new Memorandum of Understanding, one "which will supercede the MOU signed in July 2000", had been drafted. It was stated that "Reclamation has been reevaluating the organization of this project to more accurately reflect direction provided in DWRA" and that "Signatories will be Reclamation and the GDCD, representing the State of North Dakota."

At the same meeting and, apparently in an attempt to signify the intended new way of doing business, Deputy Regional Director Karl Wirkus of the Great Plains Regional Office in Billings, Montana, was introduced. We were told that he would be the lead person for "policy" with respect to the project. Policy questions and comments on policy were to be referred directly by us to him. In effect, he was to replace the Study Management Team. Mr. Wirkus gave

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Response to Comment 1

Because of concerns raised by you and others, Reclamation developed new agreements with the State of North Dakota in accordance with the Dakota Water Resources Act (DWRA). As a result of internal review we also developed a new memorandum of understanding with the State, which was specific to the requirements in DWRA and made the State a co-lead on the environmental impact statement. Per Section 8 (b) (1), which directs the Secretary of the Interior to “conduct a comprehensive study,” Reclamation had the sole lead on preparing the Report on Red River Valley Water Needs and Options. Although a number of agencies and contractors assisted Reclamation in completing studies used in the report, Reclamation was responsible for the content and conclusions of the report.

Response to Comment 2

Karl Wirkus is currently the Deputy Regional Director in the Pacific Northwest Regional Office. After Mr. Wirkus left the Great Plains Region Office, Rod Ottenbreit represented the Regional Director at Technical Team meetings in 2003. Jaralyn Beek attended the June 29-30, 2004, Technical Team meeting in Fargo, North Dakota, after she was selected to fill the Deputy Regional Director position for the Great Plains Region. Policy questions on the project were referred to the Regional Office.

assurances that Reclamation would be solely responsible for the conduct of the study and he assured participants in the Technical Team that we would see more openness in the conduct of the study and more receptivity to input and participation. This was an encouraging time for those Technical Team members who had felt disenfranchised up to that point.

A short time later Deputy Director Wirkus was reassigned by the BOR to a position in California. Neither an announcement or explanation of his departure was provided to the Technical Team and no announcement was provided with respect to who has subsequently been responsible for "policy" with respect to this project. There has been scant little opportunity for effective participation in the conduct of the study since that time.

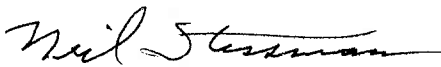
It would be a substantial stretch to classify the Red River Water Supply Study as an "open and public process" as was specifically mandated by the Dakota Water Resources Act.

I was a representative of the National Audubon Society on the Technical Team. Among other things, I helped develop scoping comments which were submitted to Reclamation on behalf of Audubon and other conservation organizations. We, along with others, made a number of suggestions with respect to the study and with respect to the development of data and information requirements in evaluating the water needs of the area, on itemizing alternatives, and in assessing potential environmental impacts. The comment letter noted that Reclamation had the opportunity to make an important contribution to the wise management of water in the Red River Valley.

Water is a very critical resource in this part of the country. I had hoped that Reclamation, in conducting the water needs study on behalf of the Secretary of the Interior, would apply their best expertise, that of experienced independent consultants and water system operators, and a strong agency management commitment to the wise and efficient use of water. To that end, it was hoped that the scoping comments, as well as comments provided by me and others through the technical team, would be accepted constructively and would help to shape the study. To a very great extent they seem to have been discounted or ignored.

Although my present situation prevents me from devoting the time necessary to prepare separate and detailed comments on the report, I have reviewed it, and I feel compelled to individually express my disappointment with the study as it has been conducted to this point. In addition, I have collaborated with Dr. Gary Pearson of the National Wildlife Federation on the comments which he has prepared with respect to the contents of the report. I also urge that they be seriously considered as the study goes forward.

Sincerely,



Neil Stessman
1106 Moon Valley Rd
Billings, MT 59105

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Response to Comment 3

There has been ample opportunity for participation on the Technical Team since the beginning of the study. Fifteen Technical Team meetings were held on the following dates at the following locations:

- March 1, 2001 Bismarck, North Dakota
- April 4, 2001 Fargo, North Dakota
- May 2, 2001 Bismarck, North Dakota
- July 12, 2001 Bismarck, North Dakota
- September 13-14, 2001 Fargo, North Dakota
- September 9, 2002 Fargo, North Dakota
- November 18, 2002 Fargo, North Dakota
- March 27, 2003 Fargo, North Dakota
- May 29, 2003 Fargo, North Dakota
- August 20, 2003 Conference Call
- September 11, 2003 Fargo, North Dakota
- October 28, 2003 Fargo, North Dakota
- June 29-30, 2004 Fargo, North Dakota
- July 19, 2004 Conference Call
- November 3, 2004 Bismarck, North Dakota
- July 5-6, 2005 Fargo, North Dakota


Response to Comment 4

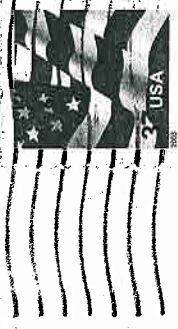
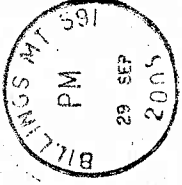
Two teams of stakeholders (Technical Team and Study Review Team) were formed to incorporate public involvement in study planning. Gubernatorial designees from states that could be affected by the Project and other representatives of federal, state, local agencies, tribes, and environmental groups were 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 (draft environmental impact statement) were taken into consideration and assisted Reclamation in developing the options described in the Final Needs and Options Report.

Response to Comment 5

Comment noted. All comments are given serious consideration.


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