

1. INTRODUCTION

1. INTRODUCTION	1-1
1.1 Background and Authority	1-1
1.2 Purpose and Need	1-2
1.3 History of the Study and National Environmental Policy Act Process	1-2
1.3.1 Phase 1 of the Study and NEPA Process	1-4
1.3.2 Phase 2 of the Study and NEPA Process	1-4
1.4 Public Concerns and Issues	1-7
1.5 American Indian Tribes and the Master Manual Revision	1-9

1.1 BACKGROUND AND AUTHORITY

The Missouri River Mainstem Reservoir System (Mainstem Reservoir System) consists of six dam and reservoir (lake) projects (Figure 1.1-1). These projects were constructed and are operated and maintained by the U.S. Army Corps of Engineers (Corps) on the Missouri River for flood control, navigation, irrigation, hydropower, water supply, water quality, recreation, and fish and wildlife habitat. To achieve these multipurpose benefits, the projects are operated as a hydrologically and electrically integrated system.

The recurrent, devastating flooding of the Missouri River and the 1930 to 1941 drought led to the construction of the dams on the Missouri River. The system of six mainstem dams on the Missouri River began with the construction of Fort Peck Dam in the 1930s. Construction of the dam commenced in 1933 by Executive Order and under authorization by Congress for relief of unemployment. Construction was completed under authorization by Congress in the Rivers and Harbors Act of 1935. Although the project was originally authorized primarily for navigation and flood control, the Fort Peck Power Act of 1938 authorized construction of hydropower facilities.

Following construction of Fort Peck Dam, additional dams were planned under the Pick-Sloan Plan developed from the combined efforts of the U.S. Bureau of Reclamation (BOR) and the Corps. The Pick-Sloan Plan, authorized by the Flood Control Act of 1944, called for Corps construction of five more mainstem dams and many tributary dams in the Missouri River basin. Dams were to be constructed by the BOR and by the Corps. The plan also authorized the multipurpose operation of

the Mainstem Reservoir System. The five additional mainstem dams are Garrison, Oahe, Big Bend, Fort Randall, and Gavins Point. The six dams form six major reservoirs (lakes) on the Missouri River: Fort Peck Lake, Lake Sakakawea, Lake Oahe, Lake Sharpe, Lake Francis Case, and Lewis and Clark Lake.

The Corps has also constructed numerous other projects on the Lower River downstream from the Mainstem Reservoir System, including the Missouri River Bank Stabilization and Navigation Project (BSNP) from Sioux City, Iowa, to St. Louis, Missouri. The navigation and bank stabilization projects were authorized under various Congressional acts. The navigation channel in the Lower Missouri River was first authorized as a 6-foot channel from Kansas City, Missouri, to the mouth of the river in the Rivers and Harbors Act of 1912. Several subsequent acts modified the navigation project. The latest modification, the Rivers and Harbors Act of March 1945, authorized construction of a 9-foot-deep by 300-foot-wide channel from Sioux City to the mouth. The release of water from the Mainstem Reservoir System serves the navigation purpose by providing water to the navigation channel at navigation target flow rates. Additional bank stabilization projects were authorized by the Flood Control Acts of 1941, 1946, 1948, 1963, 1968, 1974, and 1978. Further streambank erosion controls were authorized under the Water Resources Development Acts of 1974, 1986, and 1988.

The operation of Corps dam and lake projects, such as the Mainstem Reservoir System, are guided by master water control manuals. The Missouri River Master Water Control Manual (Master Manual) records the basic water control plan and objectives

1 INTRODUCTION

for the integrated operation of the mainstem reservoirs. The Master Manual was first published in December 1960 and was later revised in 1973, 1975, and 1979. The first Master Manual and its subsequent versions were developed in consultation with State governments within the Missouri River basin and Federal agencies having related authorities and responsibilities.

In 1989, the Corps initiated a review of the Master Manual under the authority of Corps regulation ER11-2-240a with consideration of other laws and regulations to include the following: Endangered Species Act (ESA), National Environmental Policy Act (NEPA), and the President's Council on Environmental Quality (CEQ) regulations pertaining to NEPA.

1.2 PURPOSE AND NEED

Much has changed since the Mainstem Reservoir System was first authorized, and these changes influenced the Corps' decision in November 1989 to review and update the Master Manual. Development associated with the Mainstem Reservoir System has changed the focus of residents of the Missouri River basin. The use of lake and river water for water supply has increased, as has the importance of recreation and the awareness of environmental issues. Tribal issues and the Corps' awareness of its Tribal trust responsibilities have evolved. Since 1986, two bird species and one fish species that use the Missouri River have been listed as threatened or endangered under the ESA. Section 7(A)(2) of the ESA states that all Federal agencies shall ensure that any action authorized, funded, or carried out is not likely to jeopardize the survival or recovery of listed species.

The 1987 to 1993 Missouri River basin drought had significant effects on all project purposes. Recreation around the lakes was affected by the first major reduction in lake levels since the lakes were first established at normal operating levels in 1967. Navigation experienced shorter seasons and reduced service due to reduced navigation-designated releases. Lower lake levels caused access problems for water supply intakes. Lower flows in winter accompanied by ice jams caused the shutdown of some city water supply facilities along the river and prompted some water intake owners to modify their intakes. Lower water levels also reduced wetland areas along the river and increased them at lakes.

The drought impacts prompted numerous inquiries from the Tribes, general public, State and Federal agencies, private companies, publicly and privately owned utilities, and Congressional interests regarding the operation of the Mainstem Reservoir System. In response to all of the above issues, the Corps initiated a review of the current Master Manual in November 1989 under the authority of Corps regulation (ER11-2-240a) to determine if the current Water Control Plan (CWCP) best meets the contemporary needs of the Missouri River basin. This review has taken the form of a study called the Missouri River Master Water Control Manual Review and Update (Study).

1.3 HISTORY OF THE STUDY AND NEPA PROCESS

The Study includes two phases: Phase 1 focused on a cursory economic evaluation of an array of operating alternatives to the CWCP; Phase 2 consists of technical studies; alternatives development; and economic, environmental, and social impact assessments. Phases 1 and 2 include all environmental studies and public and agency involvement required by NEPA and other applicable environmental laws.

Phase 2 also includes the preparation of an environmental impact statement (EIS) to document the NEPA process. NEPA requires that a Federal agency prepare an EIS whenever it proposes a Federal action that may significantly affect the quality of the human environment. To ensure an awareness of all environmental effects that may be caused by proposed changes to the Master Manual, NEPA requires that the EIS discuss (1) the environmental impact of the proposed action; (2) any unavoidable adverse environmental effects; (3) alternatives to the proposed action; (4) the relationship between the short-term benefits of the proposed action and the long-term productivity of the environment; and (5) any irreversible and irretrievable commitment of resources caused by the proposed action.

The Corps has followed the President's CEQ regulations pertaining to NEPA. Scoping meetings were conducted to solicit Tribal, agency, and public input, and issues identified during scoping are addressed in this Final EIS (FEIS).

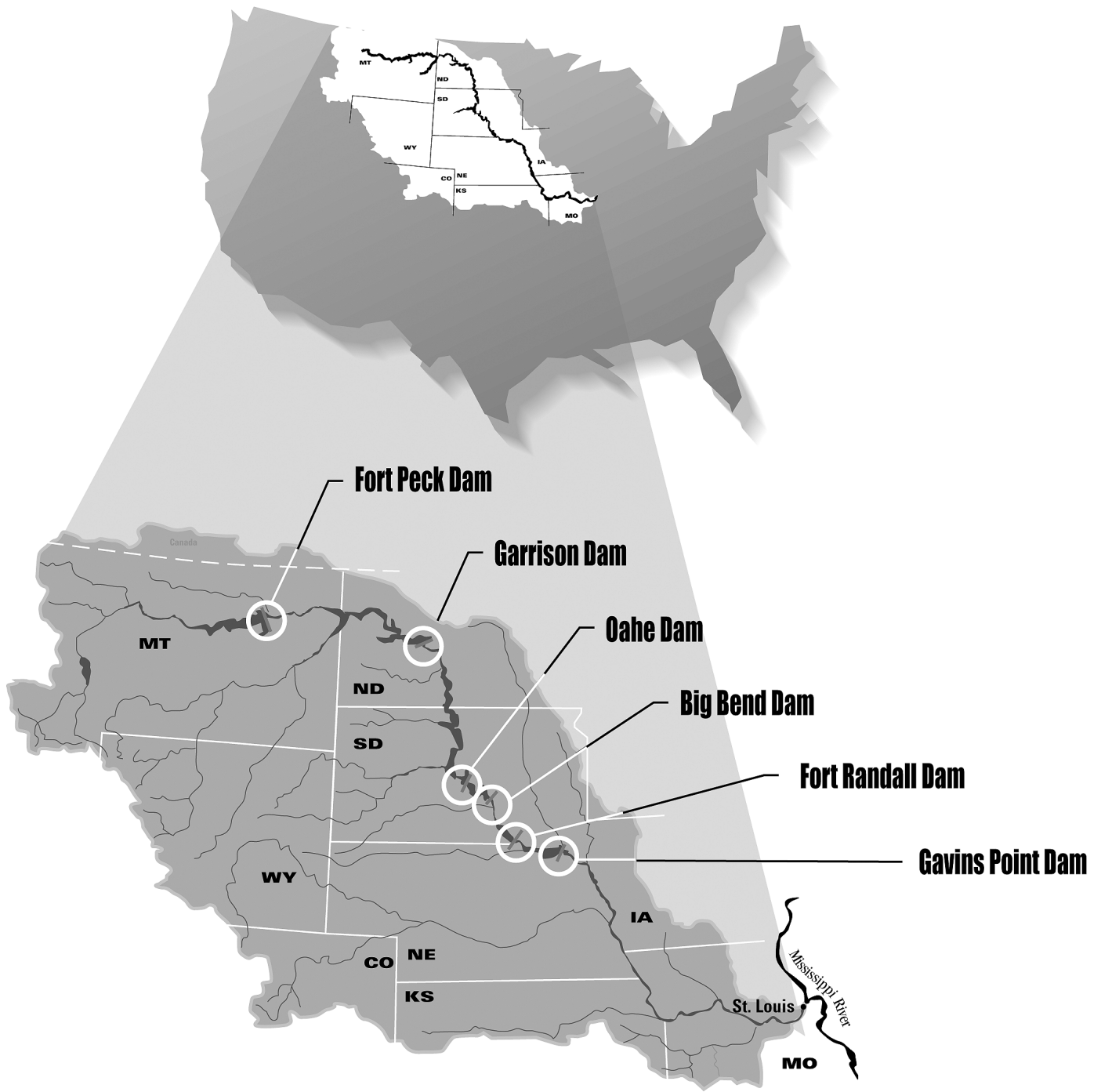


Figure 1.1-1. Project area map.

1 INTRODUCTION

1.3.1 Phase 1 of the Study and NEPA Process

The primary objectives of Phase 1 of the Study were to (1) develop a range of operating alternatives, (2) address basin concerns, (3) complete sufficient preliminary analyses, (4) identify alternatives that merit further study, and (5) identify data gaps and weaknesses in evaluation methodologies. To accomplish these objectives, Phase 1 studies evaluated the CWCP and 22 alternatives. Several of the alternatives evaluated provided additional flood control storage to address flooding problems in the Lower River. Another set of alternatives evaluated the effects of changing permanent pools, seasonal non-navigation flow criteria, and the navigation service criteria. An existing hydrologic computer model, the Long Range Study (LRS) Model, was updated to analyze alternatives using a monthly time step. An economic model was developed to identify the economic effects of alternatives. Alternatives were characterized in hydrologic and economic terms and, using these models, their performances were compared to that of the CWCP.

A draft Phase 1 report was issued in May 1990, and public meetings were held to identify concerns and issues. The report, which concluded that there was merit in pursuing more detailed studies, recommended a range of alternatives for further study. It identified key economic and environmental resources that may be affected by changes to the CWCP and described methods for determining effects of changes to operation on key resources. Preliminary assessments of the impacts to key resources were presented.

Public meetings were held in June 1990 in Glasgow, Montana; Bismarck, North Dakota; Pierre, South Dakota; Kansas City, Missouri; and Council Bluffs, Iowa. The meetings were held to obtain comment on the Phase 1 report and additional public input regarding the alternatives that should be evaluated and issues that should be addressed in the Study. A preliminary study plan was developed for Phase 2 based on the comments received (Corps, 1990).

1.3.2 Phase 2 of the Study and NEPA Process

Phase 2 was initiated in July 1990. A study plan was developed to identify the overall process to

follow and to outline the technical analyses to be included in this second and more complex phase of the Study. To get Tribal and public feedback on their perceptions of the process and the issues to be addressed in the technical studies, a series of scoping meetings were held in October 1990 at the following locations: Helena and Glasgow, Montana; Bismarck, North Dakota; Pierre, South Dakota; Memphis, Tennessee; St. Louis, Missouri; Kansas City, Missouri; and Council Bluffs, Iowa. The Phase 2 Study plan was modified based on comments made at these meetings.

Phase 2 of the Study includes the following objectives:

- Solicit input from interested parties and determine Tribal and public concerns/issues;
- Identify alternatives to the CWCP;
- Establish a basis for identifying the plan that best meets the wide variety of contemporary needs served by the Mainstem Reservoir System;
- Evaluate social, economic, and environmental impacts of existing and alternative plans;
- Address legal constraints on the selected alternative regarding changes to operations;
- Consult with American Indian Tribes on a Government-to-Government level;
- Obtain the input of the basin States' governors and other interested parties;
- Identify the best plan for operating the Mainstem Reservoir System; and
- Expedite the implementation of recommended operational changes, if existing constraints will allow.

The Phase 2 Study plan identified ways to obtain additional data and develop methodologies to define the system operation and economic, social, and environmental impacts of those plans that merited further study. Refinements were made to the LRS Model, which was used to simulate monthly discharges and lake levels resulting from changes in operating criteria. Economic and environmental models were developed to predict effects of the various alternatives being considered. Detailed studies of the navigation industry, water supply users, river water quality, recreation, hydropower, socioeconomic system, wetlands, historic properties, and wildlife and fish habitat

were conducted. Impacts of those plans on economic, social, and environmental resources that merit further study were estimated. These activities were coordinated with technical subcommittees formed by the Missouri Basin States Association (now the Missouri River Basin Association [MRBA]) and the staffs of other State and Federal resource agencies.

In May 1992, a scoping document entitled “Scope of Environmental Impact Statement” (Corps, 1992) was completed and distributed. This document was a compilation of the issues brought forth in the scoping meetings, as well as numerous other meetings and communications since that time. An Initial Evaluation Report was shared with the MRBA and its technical subcommittees in August 1992 to get feedback on the technical models developed for the Study and to share the results of their application to an initial set of alternatives. Based on feedback, some changes were made to the technical analyses. In May 1993, a Preliminary Draft EIS (PDEIS) was provided to State and Federal agencies and the Tribes for a technical review. This document presented the effects of changing from the CWCP to a set of three plans with varying levels of drought conservation and three plans with varying levels of drought conservation and measures to further benefit the environment. A Preferred Alternative (PA) was not identified in the PDEIS. Drafts of the series of supporting technical reports were also released for review with the PDEIS. The technical review culminated with an issue review conference that was held in August 1993 to address any remaining key issues prior to completion of the Draft EIS (DEIS). At this meeting, the basin States requested that the DEIS identify a PA on which to receive feedback from the Tribes and public.

The Corps completed revisions and released the DEIS (which included a PA) in August 1994. After release of the DEIS, a 6-month public review and comment period was held. The Corps hosted 24 public workshops and hearings throughout the Missouri River basin and in St. Louis, Missouri; Memphis, Tennessee; New Orleans, Louisiana; and Quincy, Illinois during the comment period. All comments were then evaluated to determine the scope of studies required to respond to the numerous DEIS comments. As a result of this evaluation, the Corps determined that additional or revised technical analyses were necessary. To fully address some of the comments, the Corps determined that daily flow data would be helpful.

Completion of a daily hydrologic model, the Daily Routing Model (DRM), was expedited. Three new analysis models were developed—both interior drainage and groundwater models of representative sites on the Lower River and a hydraulic model of the Mississippi River. Other analyses were updated—Missouri River navigation, flood control, physical habitat for native river fish, and Mississippi River navigation. The completion of these analyses and a reformulation and evaluation of alternatives were to be followed by preparation of a Revised Draft EIS (RDEIS).

As the Corps team proceeded with its efforts to prepare the RDEIS, coordination continued with Tribes, MRBA, and other interested parties. These discussions prompted the Corps to consider providing detailed impact data on an array of alternatives and to solicit additional Tribal and public input before selecting a new PA. The Corps, therefore, decided to release and coordinate an additional document that is not described in or required by the NEPA process. A preliminary version of the RDEIS (PRDEIS) was released to provide the public with detailed data on an array of alternatives.

The supporting technical reports on the various studies conducted since the completion of the DEIS were published with the PRDEIS. The goal was to facilitate both the Tribes’ and the public’s understanding of the new and updated technical analyses and data that are presented in the PRDEIS. These documents served as the supporting technical reports for the RDEIS; however, their circulation preceded the distribution of the complete RDEIS.

The PRDEIS, published in August 1998, identified eight alternatives that represented the full range of interests in the Missouri River basin. A Tribal and public coordination period followed, with 13 informational workshops held within the Missouri River basin and 2 held in the Mississippi River basin. Two of the Missouri River basin workshops were held in Tribal towns. The purpose of the PRDEIS and subsequent coordination period was to maximize the opportunity for agreement on a flow management alternative by Missouri River basin entities. Subsequent to the PRDEIS, the Corps worked intensely with all Missouri River basin entities in the development of consensus flow management plans and initiated formal Government-to-Government consultation with the 30 Federally recognized Missouri River basin Tribes. Recommendations for flow management

1 INTRODUCTION

alternatives were submitted by the MRBA, American Rivers, the Missouri River Natural Resources Committee (MRNRC), and the Missouri Levee and Drainage District Association (MLDDA). The Mni Sose Intertribal Water Rights Coalition also provided recommendations for further studies.

In January 2000, a Corps Northwestern Division (NWD) PA was announced. In March 2000, the U.S. Fish and Wildlife Service (USFWS) indicated that the NWD PA would not preclude jeopardy of listed Missouri River species. At that time, the Corps requested the USFWS move to formal consultation so that the USFWS could identify the components that needed to be added to the CWCP to preclude jeopardy. On April 1, 2000, formal consultation on the current operation of the Mainstem Reservoir System, operation and maintenance of the Missouri River, the BSNP, and Kansas River operations was initiated. In November 2000, USFWS issued a Biological Opinion (November 2000 BiOp). It concluded that current operations jeopardize the continued existence of the three listed species - piping plover, interior least tern, and pallid sturgeon. The November 2000 BiOp included a Reasonable and Prudent Alternative (RPA) to avoid jeopardy. While both the November 2000 BiOp and the RPA are broader in scope than the Corps' operation of the Mainstem Reservoir System, prescribed changes in the Corps' operation of the Mainstem Reservoir System are a major element of the RPA.

In April 2001, the Western Area Power Administration (WAPA) was given official cooperating agency status for the Study. This was based upon WAPA jurisdiction by law relative to the marketing of hydropower generated by the Missouri River Mainstem dams and reservoirs, as well as specific WAPA expertise in assessing rate impacts. As a cooperative agency, WAPA provided the Corps with a hydropower revenue impact analysis comparing the alternatives selected for detailed analysis. This analysis is clearly presented in the RDEIS and FEIS in Chapter 7.

On August 31, 2001, the Corps published an RDEIS. The RDEIS, which did not identify a PA, analyzed six alternatives in detail—the CWCP; a Modified Conservation Plan (MCP) that included additional measures to conserve more water in the lakes during drought, and all of the USFWS's flow recommendations with the exception of modified Gavins Point Dam releases; and four alternatives

that included the additional drought conservation measures and all of the USFWS' flow recommendations including varying increases in spring releases and lower summer releases from Gavins Point Dam. These alternatives were known as the Gavins Point (GP) options. These latter four alternatives addressed the full range of changes in releases from Gavins Point Dam that the USFWS recommended in its November 2000 BiOp. If one of the GP alternatives was selected as a starting point for the PA, under an adaptive management strategy, the RDEIS provided NEPA coverage such that the Gavins Point releases could be adjusted to the full range of those prescribed in the November 2000 BiOp without further NEPA review.

A 6-month public comment period on the RDEIS began on September 1, 2001, and concluded on February 28, 2002. Twenty Tribal and public workshops and hearings were held at numerous locations throughout the Missouri River basin and at several locations in the Mississippi River basin. Oral, written, and electronic comments were taken until February 28, 2002. Nearly 54,000 comment documents (letters, postcards, faxes, and e-mails) were received.

Subsequent to the RDEIS, the Corps conducted several additional analyses in order to respond to the numerous comments received and to further analyze impacts to some key resources and uses. Also, refinements were made to the DRM to better reflect real-time operation and minimize adverse impacts. The Corps considered the following in the decision process for selection of the FEIS PA: Public and Tribal RDEIS comments; Tribal input received during Government-to-Government consultation; additional studies on the Missouri River navigation industry; effects of alternatives on Mississippi River resources; impacts to power rates and thermal generating capacity at risk; results of the new tern and plover habitat modeling for Lake Sakakawea and Lake Oahe; NEPA documentation; the National Academy of Sciences (NAS) report entitled "The Missouri River Ecosystem: Exploring the Prospects for Recovery" published in January 2002; and the USFWS December 2003 Biological Opinion (December 2003 BiOp).

- In order to ensure the PA is in compliance with the ESA, the Corps and the USFWS reinitiated consultation under Section 7 of the ESA in November 2003. On December 16, 2003, the USFWS provided the Corps an amendment to its November 2000 BiOp on

the Missouri River Mainstem Reservoir System, Missouri River Bank Stabilization and Navigation Project, and Kansas River Reservoir System. The amended BiOp and comments received in response to this FEIS will be considered in the Corps' decision regarding a selected plan, which will be announced in the Corps' Record of Decision following the FEIS comment period.

The PA presented in this FEIS represents the Corps' conclusions regarding how the Missouri River Mainstem Reservoir System should be operated to best serve the overall public interest while complying with all applicable laws and regulations. The PA reflects the need for changes in the operation of the Mainstem Reservoir System. The Corps believes that the PA presented and evaluated in this FEIS best balances and serves all Congressionally authorized project purposes, while complying with the Corps' obligations under all other applicable statutory and regulatory requirements, including the ESA, and fully satisfying the Corps' responsibilities to Federally recognized Tribes. This PA was developed taking into account all reasonably foreseeable impacts to upstream and downstream key resources. The Corps believes the PA represents a balanced approach to operation of the Mainstem Reservoir System, best achieves the multiple purposes and benefits for which the mainstem reservoirs were authorized and constructed, and represents the best approach for satisfying the Corps' obligations under all other statutory and regulatory requirements.

Following publication of this FEIS, interested parties are invited to submit written and electronic comments during the 30-day comment period. Following the comment period and consideration of the amended BiOp and comments received, the Corps will prepare a Record of Decision (ROD), revise the Master Manual, develop an Annual Operating Plan (AOP) that conforms to the guidelines established under the revised Master Manual, and implement the new Water Control Plan.

1.4 PUBLIC CONCERNS AND ISSUES

Comments presented during scoping meetings and comment documents received during the scoping process identified many concerns and issues of the public and the Federal and State resource

management agencies. A summary of general public comments and the Corps' responses was presented in a scoping document, entitled "Scope of Environmental Impact Statement" (Corps, 1992), dated May 1992. The following is a list of some of the major concerns and issues identified during scoping.

- Flood control and navigation requirements in the Lower River have caused problems in the Upper River and lakes (e.g., low river flows and lake levels).
- Releases required to meet seasonal, daily, and hourly hydropower demands have affected other beneficial uses.
- Protection against drought is needed for many resources.
- Minimum flows are needed in tail waters below the dams.
- Operations affect marina operation.
- Operations affect channel configuration, which in turn affects navigation, wetlands, fish habitat, bird nesting habitat, and other resources.
- Operations affect shoreline erosion.
- Operations affect local, regional, and National economies (cities, counties, States, and Tribal Reservations).
- Operations affect threatened and endangered fish and wildlife.
- Operations affect public safety (transportation, boating, and flooding).
- Operations affect regional electric power production, especially during peak demand periods.
- Operations affect river icing, which in turn affects water supply, flooding, channel configuration, and fish and wildlife habitat.
- Operations affect water supply (agricultural, municipal, and industrial).
- Operations affect cultural resources.
- Operations affect water quality (pollution dilution, river temperature, and dissolved oxygen).
- Operations affect air quality (shift to steam electric power generation and more land-based transportation).

1 INTRODUCTION

Comments received during the review period for the DEIS identified the need for additional analysis techniques and re-identification of a PA. The Corps focused on the following impacts and activities in response to the comments received during the DEIS review period:

- Missouri River interior drainage impacts to lands behind levees;
- Missouri River groundwater impacts to riparian lands;
- Development of a daily model for Missouri River hydrology to provide required data for the interior drainage and groundwater analyses;
- Missouri River flood control analysis using updated land use information and the capability of computing damages and benefits (the analysis uses data from the daily flow model for Missouri River hydrology);
- Missouri River sedimentation/erosion cumulative impacts;
- Missouri River navigation analyses of National and regional economic impacts;
- Missouri River navigation viability analysis;
- Missouri River navigation alternative mode pollutant analysis;
- Missouri River native river fish physical habitat analysis;
- Hydrologic effect of Missouri River operations on the Mississippi River based on daily data from the Missouri River;
- National and regional economic impact analyses of Mississippi River navigation; and
- Mississippi River resource reviews to determine if any are potentially affected by Missouri River daily operations using the updated hydrologic data.

Considerable time was spent following the release of the PRDEIS and subsequent workshops to further educate basin entities on the tradeoffs associated with the combinations of the plan components included in the eight representative alternatives. As some of the entities worked to develop their proposals for consideration, they expanded upon the components included in the eight representative alternatives. During this rather

intense and lengthy process, no requests were received to modify or develop new models. The jeopardy declaration made by the USFWS in March 2000 prompted the development of additional models to better analyze the Mainstem Reservoir System operational changes that were being proposed by the USFWS for inclusion in its RPA. As other entities became aware that the USFWS was going to issue a November 2000 BiOp with an RPA that included a spring rise followed by low summer flows downstream of Gavins Point Dam, additional analyses were requested by these entities. The following analyses were performed during and following the preparation of the November 2000 BiOp:

- Connectivity of the Lower River to adjacent low-lying lands;
- Quantification of shallow water habitat along the Lower River;
- Evaluation of the frequency at which potential spawning cues would occur;
- Quantification of potential hydropower revenue losses;
- Effects of hydropower revenue losses on consumer power rates;
- Quantification of the risk of lost power-generating ability for both capacity and energy from hydropower and thermal powerplants;
- Re-evaluation of the hydropower benefits;
- Re-evaluation of the navigation benefits; and
- Determination of ways to reduce risks of crop damages along the Lower River.

In order to respond to RDEIS comments and further analyze impacts to some key resources and uses, the Corps conducted several additional analyses and made some model adjustments. The hydrological modeling for the Master Manual continues to evolve toward a model that is useful for real time operations. Research, review, analysis, and study in the following areas were critical to the decision process and selection of the FEIS PA:

- Tribal input received during Government-to-Government consultation;
- Tribal and public comments;
- Effectiveness of the Gavins Point Dam spring rise and lower summer flows;

- Ability of the spring rise to create/maintain nesting habitat;
- Impacts of low summer flows on existing mitigation sites along the Lower River;
- Results of the Tennessee Valley Authority (TVA) study on the future viability of the Missouri River navigation industry;
- Analysis by the Corps' Mississippi Valley Division (MVD) on the effects of the alternatives on the Mississippi River;
- Additional analyses by Western Area Power Administration (WAPA) and the Corps' Hydropower Center of Expertise on the impacts to power rates and thermal generating capacity at risk;
- Results of the lake tern and plover habitat modeling for Lake Sakakawea and Lake Oahe;
- NEPA documentation;
- USFWS Amended BiOp (December 16, 2003) on current operations;
- National Academy of Sciences (NAS) report, "The Missouri River Ecosystem:

Exploring the Prospects for Recovery" (January 2002);

- Site visits by the NWD Commander

1.5 AMERICAN INDIAN TRIBES AND THE MASTER MANUAL REVISION

There are 30 American Indian Tribes located within the Missouri River basin. Thirteen of the 25 Tribal Reservations shown on Figure 1.5-1 are located directly on the Mainstem Reservoir System and lower 811 miles of the Missouri River, while others are dispersed within tributary stream basins. The U.S. Government has a special and unique relationship with Federally recognized Tribes. This relationship is not only defined by law and regulation but also is deeply rooted in the Nation's history. Federally recognized Tribes are dependent sovereign nations, and Tribal governments are sovereign entities with rights to set their own laws and priorities, to develop and manage Tribal and trust resources, and to be involved in Federal decisions or activities that have the potential to affect these rights. Federally recognized Tribes



Figure 1.5-1. Tribal Reservations in the Missouri River Basin.

1 INTRODUCTION

have a legal relationship to the United States through treaties, Acts of Congress, executive orders, or other administrative actions that are independent of States. The Tribes, as sovereign Nations, retain inherent powers of self-government.

Accordingly, the Corps acknowledges that the operation and maintenance of the Missouri River can and does significantly affect Tribal trust assets and, therefore, the Corps has a legal and trust responsibility to the Tribes affected. These responsibilities are described in the President's Memorandum on Government-to-Government Relations with American Indian Tribal Governments signed on April 29, 1994, and the Department of Defense's American Indian and Alaska Native Policy signed by the Secretary of Defense on October 20, 1998. In no way does this Study attempt to define, regulate, or quantify water rights or any other rights that the Tribes are entitled to by law/treaty, but rather attempts to set up the framework for future relations for protection of Tribal trust resources.

In the course of the Master Manual Review and Update, the Corps has attempted to ensure that it has met its legal and trust responsibilities, both procedurally and substantively. In addition to the basin Tribes' involvement in the Study process, for several years the Corps held numerous informal discussions with the basin Tribes. Following publication of the PRDEIS in 1998 and subsequent Tribal workshops, the Corps accelerated its efforts to fulfill its Tribal responsibilities. In February 1999, the Corps offered formal consultation to the 30 basin Tribes. A facilitated Tribal Summit was held in Rapid City, South Dakota, to initiate formal consultation. Additionally, following the PRDEIS, the Corps worked with the Mni Sose Intertribal Water Rights Coalition toward development of a Tribal alternative. That effort culminated with the submission of recommendations by the Mni Sose Intertribal Water Rights Coalition in March 1999.

A Tribal Summit was held on June 27, 2001, in Bismarck, North Dakota to discuss the consultation process on the Study and to schedule workshops on the RDEIS.

Following publication of the RDEIS in August 2001, the Corps held several workshops and hearings in partnership with the Tribes. After the comment period concluded, a Tribal Summit was held on April 16, 2002, in Rapid City, South Dakota. Eighteen basin Tribes were represented at this Summit. While the Tribes expressed concerns

about many Missouri River issues, impacts to cultural resources resulting from operation of the Mainstem Reservoir System is a major Tribal issue.

On October 31, 2003, a Tribal Summit was held in Rapid City, South Dakota. Eight Tribes attended the meeting with the issues being similar to those expressed at previous Summits. See Appendix A for additional information. At the time this FEIS was prepared, nine basin Tribes had accepted the Corps' offer of Government-to-Government consultation, and initial consultation meetings were held with those Tribes. The Corps continues to offer consultation to all basin Tribes. Consultation with the basin Tribes will continue throughout the NEPA process as the Corps meets its Tribal responsibilities; however, the Corps recognizes that consultation with the Tribes on many significant issues relating to management of the Missouri River will continue well into the future and that the Tribes will have an important role in MRRIP.

The Corps' evolving awareness of its Tribal responsibilities is reflected in this FEIS. The main body of this FEIS identifies, analyzes, and summarizes impacts to Tribal resources that result from the PA. A separate Tribal Information Appendix (Appendix A) to this document has been prepared that centralizes Tribal information for easy reference. The appendix addresses several issues that are extremely important to basin Tribes. These issues include Tribal Sovereignty, Treaties, Trust Responsibilities, Water Rights, Cultural Resources, and the Corps' Tribal Policy Principles. Further, the appendix contains the Government-to-Government consultation history, process, and record to date. Finally, in the course of Tribal consultation and discussions, the Corps has recognized its limited ability to accurately capture issues from the Tribal perspective. For this reason, and for easy reference, all correspondence received from basin Tribes throughout the Study has been included in Appendix A.