

RECLAMATION

Managing Water in the West

DK-5000-12-01

Finding of No Significant Impact

Irrigation Water Service and Power Contracts for Heart Butte Unit, Heart Division - Morton and Grant Counties, North Dakota

**Heart Butte Unit-Pick-Sloan Missouri Basin
Program**



U.S. Department of the Interior
Bureau of Reclamation
Great Plains Region
Dakotas Area Office

June 2013

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United States Department of the Interior



BUREAU OF RECLAMATION

Dakotas Area Office

P.O. Box 1017

Bismarck, North Dakota 58502

IN REPLY REFER TO:

DK-5000-12-01

ENV-6.00

JUN 27 2013

Dear Interested Party:

The Bureau of Reclamation has completed a Finding of No Significant Impact (FONSI) on the Environmental Assessment (EA) for Irrigation Water Service and Power Contracts for Heart Butte Unit, Heart Division, Morton and Grant Counties, North Dakota.

The report was prepared by Dakotas Area Office, Bismarck, North Dakota.

The EA described the proposed action which is to enter into a long term irrigation water service contract renewal with the Company and individual water service contract holders and/or enter into a water service or repayment contract with the Western Heart River Irrigation District (District) or other entity and an electric power service contract with the District to increase the project use power, to accommodate the new users, also called the "Contract Rate of Delivery" or CROD.

We have determined that Reclamation's proposed action is primarily an administrative action, as described in the EA, will not result in significant impacts to the human and natural environment; therefore, an environmental impact statement will not be prepared. A complete analysis of the project's anticipated environmental impacts is contained in the EA.

The EA evaluated the potential impacts to the human and natural environment associated with the Proposed Action that consists of the following:

- (a) Continue to deliver irrigation water from Heart Butte Reservoir to the Lower Heart Irrigation Company and 17 individual irrigators.
- (b) Reorganize the irrigators within the Western Heart River Irrigation District or similar entity in Grant and Morton Counties in North Dakota.
- (c) Increase the Contract Rate of Delivery of Pick-Sloan Missouri Basin Program power for those irrigators that qualify.
- (d) Include contract amendment capability for the remaining capacity of the 10,000 acres (2,300.2 acres) of authorized and previously analyzed Heart Butte Unit irrigation, into the new contract while requiring additional future NEPA analysis.

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Reclamation, as the lead Federal and contracting agency of the project, has determined that a FONSI is appropriate for the proposed administrative action.

A copy of the FONSI is enclosed. Additional copies of the FONSI or the EA may be obtained by calling Kelly McPhillips, Environmental Specialist, at 701-221-1287 or by requesting in writing from: Area Manager, Bureau of Reclamation, P.O. Box 1017, Bismarck, North Dakota 58502.

Sincerely,

A handwritten signature in cursive script, appearing to read "R. L. Long".

Richard L. Long
Area Manager

Enclosure

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UNITED STATES DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION
DAKOTAS AREA OFFICE
BISMARCK, NORTH DAKOTA

FINDING OF NO SIGNIFICANT IMPACT

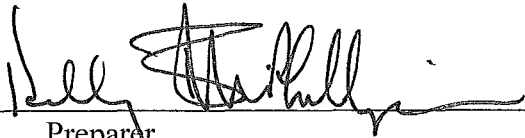
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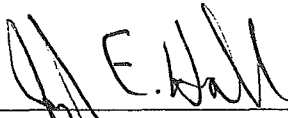
Final Environmental Assessment for

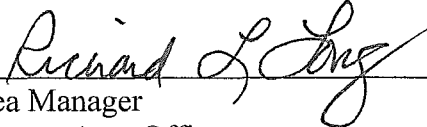
Irrigation Water Service and Power Contracts for Heart Butte Unit, Heart Division

Morton and Grant Counties, North Dakota

Environmental Assessment No. DK-5000-12-01

Recommended:  Date: 4 June 2013
Preparer
Dakotas Area Office

Concur:  Date: 14 June 2013
Chief, Resource Management
Dakotas Area Office

Approved:  Date: 6/14/2013
Area Manager
Dakotas Area Office

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INTRODUCTION

Issuance of this Finding of No Significant Impact (FONSI) follows the completion of the Environmental Assessment for Irrigation Water Service and Power Contracts for Heart Butte Unit, Heart Division, Morton and Grant Counties, North Dakota.

The FONSI describes the reasons for finding the proposed action's anticipated impacts insignificant. This document contains the FONSI. A copy of the Final Environment Assessment (FEA) can be obtained by contacting Area Manager, Dakotas Area Office, 701-250-4242 or writing: Area Manager, Dakotas Area Office, PO Box 1017, Bismarck, ND 58502.

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Finding of No Significant Impact
For
Irrigation Water Service and Power Contracts for Heart Butte Unit, Heart Division
Morton and Grant Counties, North Dakota

The proposed administrative action is to enter into new contracts and/or amend existing contracts for water service and power service for irrigation within the Heart Butte Unit, Heart Division, Morton and Grant Counties, North Dakota. The proposed action, Reclamation's preferred alternative, would continue to provide irrigation water to the shareholders of the Lower Heart Irrigation Company (Company) and the individual irrigators that hold expiring individual water service contracts with Reclamation.

The irrigators of the Company and the individual contract irrigators would be administratively reorganized into only the District or possibly into the District and Company rather than represent many separate contracts.

The proposed administrative action, Irrigation Water Service and Power Contracts for Heart Butte Unit, Heart Division (**Figure 1**), consists of the following:

- (a) Continue to deliver irrigation water from Heart Butte Reservoir to Lower Heart Irrigation Company and individual contract irrigators.
- (b) Reorganize to consolidate Company and individual contract lands into the Western Heart River Irrigation District or similar entity in Grant and Morton Counties in North Dakota.
- (c) Increase the Contract Rate of Delivery of Pick-Sloan Missouri Basin Program power for those irrigators that qualify.
- (d) Include the 2,300.2 remaining undeveloped acres of the 10,000 acres of authorized and previously analyzed Heart Butte Unit irrigation into the new contract, while requiring additional future site-specific NEPA analysis for new acreage and irrigated lands to be added to the contract.

Five agency responses were received regarding the scoping for development of the Environmental Assessment. No private citizens or Tribes responded to the scoping notice that was circulated for 15 days. More than 30 days have transpired since the release of the Final Environmental Assessment during which time Reclamation received 3 agency responses (pages 8, 9, and 10) in support of the proposed action and no responses from private parties or nongovernmental organizations (NGOs).

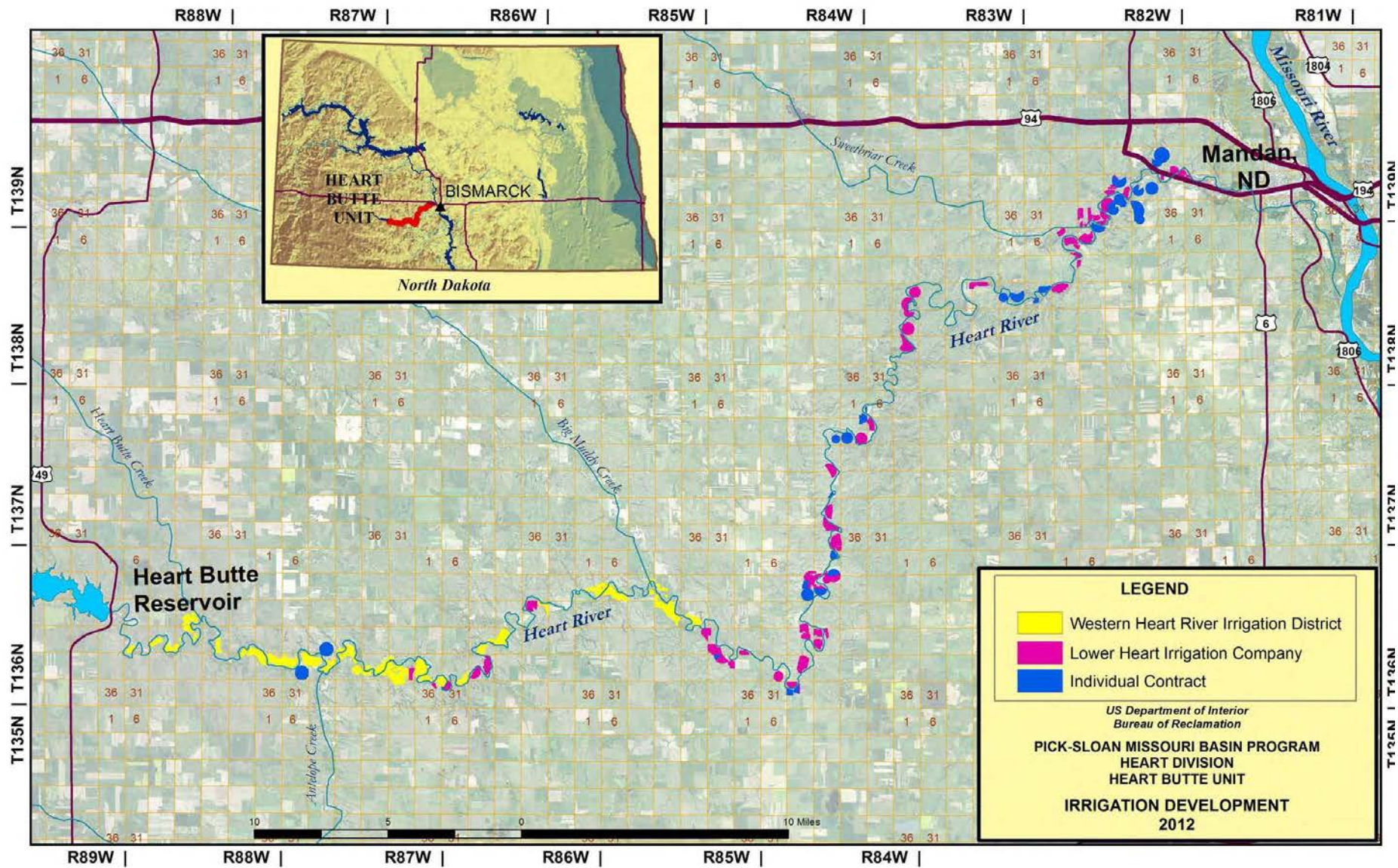


Figure 1. Heart Butte Unit extending from Heart Butte Reservoir to near Mandan, ND.

Agency Decision

Proposed Action. Reclamation has determined that the Proposed Action represents Reclamation's preferred and the Community alternative, as described in the environmental assessment DK-5000-12-01 and will not result in significant impacts to the human and natural environment; therefore, an environmental impact statement will not be prepared. A complete description and analysis of the project's anticipated environmental impacts is contained in the EA.

Reclamation defines significance relative to context and intensity in accordance with CEQ Regulations, 40 CFR 1508.27.

The reasons for the FONSI determination are summarized as follows:

- (a) This action would not have a significant effect on the quality of the human environment.
- (b) This action would not have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].
- (c) This action would not have significant impacts on public health or safety.
- (d) This action would not have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.
- (e) This action will not have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.
- (f) The action will not establish a precedent for future action or represent a decision in principal about future actions with potentially significant environmental effects.
- (g) The action will not have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.
- (h) This action will not have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office.
- (i) This action will not have significant impacts on species listed, or proposed to be listed, on the list of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.
- (j) This action will not violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.
- (k) This action will not have a disproportionately high and adverse effect on low income or minority populations.

- (l) This action will not limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).
- (m) This action will not contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).
- (n) This action will not affect Indian Trust Assets (ITA).
- (o) An increase in the amount of Project-Use Power delivered to the District would not result in a significant change in operations within the District.
- (p) Approval of an increase in Project-Use Power would result in cost savings to the District.

Environmental Mitigation Commitments

This section presents environmental commitments which have been developed in consultation with Federal and State agencies, the Tribes, and public through construction of projects and responses to public NEPA project scoping over the last decade in North Dakota by Reclamation and project sponsors. These commitments are included as an inseparable component of the Proposed Action and are designed to offset potential for significant environmental effects resulting from the Proposed Action.

Reclamation is responsible to ensure that irrigators are following these commitments.

These environmental commitments will be implemented to (1) prevent, minimize, or offset the occurrence of potential for adverse environmental effects and (2) ensure compliance with applicable Federal and State regulations designed to protect fish and wildlife resources, important habitats and sensitive areas, cultural resources, human health and safety, and the public interest.

These environmental commitments will be implemented to (1) prevent, minimize, or offset the occurrence of potential for adverse environmental effects and (2) ensure compliance with applicable Federal and State regulations designed to protect fish and wildlife resources, important habitats and sensitive areas, cultural resources, human health and safety, and the public interest.

Intakes and New Irrigated Lands

Within 5 years of entering into a new contract or contract amendment all pump intakes must be screened with ¼ inch or smaller screen openings with an approach velocity of not more than ½ foot/sec.

New intakes must comply with screen opening and approach velocity standards at the time of intake construction.

New pipe burial or excavation for delivery of Heart Butte Unit irrigation water must be reviewed by Reclamation for environmental compliance.

To the extent possible, intakes shall not withdraw water from the bottom 2 feet of water in the river channel; noting that it is not physically possible to meet such a restriction in some of the project area since the Heart River flow is less than 2 feet deep in many places.

If Intake lines are buried in the river bed during future construction, project shall include backfilling the trench to original contours and securing appropriate Army Corps of Engineers permits prior to trenching.

Operators constructing and installing a new intake are responsible to contact Army Corps of Engineers Bismarck Regulatory Office (701-255-0015) for appropriate permits.

New pumping plant sound levels shall not exceed 75 dB at 50 feet.

Intakes must be marked and be readily identifiable during day or night hours as appropriate for navigation traffic.

Reclamation will continue to meet its responsibility to ensure environmental (NEPA and NHPA, etc) compliance is completed for new lands to receive irrigation water before construction or irrigation takes place.

Best Management Practices and Water Conservation

Water conservation techniques will be furthered by Reclamation and the irrigators shall develop and operate under a water conservation plan and Best Management Practices such as providing buffer strips between cultivated fields and the river's edge.

As a water conservation measure, the District and/or the Company must provide Reclamation with expected irrigation demands to enable Reclamation to better regulate releases from the reservoir to minimize unnecessary releases during drought periods.

Endangered Species, Fish and Wildlife

Unanticipated threatened or endangered species encountered within the irrigation District, Company lands, or other contracted lands should be reported to Reclamation in order that Reclamation may consult with the Service to avoid impacts to the species.

Intake design specifications that were created jointly by state and federal agencies and recommended by North Dakota Game and Fish Department to protect endangered, endemic, and sport fish stocks will be followed (Refer to **Intakes and New Irrigated Lands**).

New power lines, for the purposes of serving Reclamation irrigation water pumps, to the extent possible, should be:

- (a) Buried (Service 2010, Stehn and Wassenich 2006) to minimize electrocution hazards to raptors and minimize impacts to all birds, bats, and particularly benefit whooping cranes. Use Suggested Practices for Avian Protection on Power Lines - The State of the Art in 2006, Avian Power Line Interaction Committee, Edison Electric Institute, Raptor Research Foundation, Washington, D.C., or similar standards will be used. <http://www.eei.org/ourissues/TheEnvironment/Land/Documents/AvianProtectionPlanGuidelines.pdf>(pp 30 -42)

And Reducing Avian Collisions with Powerlines, the state of the art 2012 (APLIC), or

- (b) any new, above ground power lines and an additional equal length of existing power lines in the same vicinity as suitable whooping crane habitat should be marked with visibility enhancement devices to benefit migrating whooping cranes as well as all migratory birds and bats.

Historic Properties and Culturally Sensitive Areas

All future cultural resource investigations, for new undertakings, will be performed according to the procedures specified in the programmatic agreement among Reclamation, the State Historic Preservation Office, and the Advisory Council on Historic Preservation for Reclamation activities in North Dakota. Cultural resource inventories will be performed under the direction of an archaeologist that meets the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-9). All appropriate cultural resource activities will be completed prior to the commencement of ground-disturbing activities, including Class I and Class III surveys and consultation with the SHPO. All cultural resources, except those exempted in the programmatic agreement, will be avoided if their significance cannot be established prior to disturbance. If avoidance is not practicable, Reclamation, in consultation with the SHPO would determine if the site is eligible for nomination to the National Register of Historic Places [36CFR800.4(c) and 36CFR60.4]. If the site is eligible as a historic property, initially Reclamation, SHPO, and other interested parties, depending on the type of property, will consult to determine a plan of mitigation. If an adverse effect cannot be avoided, the Advisory Council on Historic Preservation will be contacted. All ensuing activities will comply with the NHPA, as amended, and the Archaeological Resource Protection Act.

The Tribes will be consulted concerning the locations of unmarked burials or cemeteries. All such burials or cemeteries will be avoided to the extent possible. If a burial or cemetery cannot be avoided or is encountered during construction, Reclamation will comply with the Native American Graves Protection and Repatriation Act if graves are discovered on Federal or trust lands or within reservation boundaries. Reclamation will comply with North Dakota Century Code 23-06-27: "Protection of Human Burial Sites, Human Remains, and Burial Goods" for graves on private or State-owned lands.

If unrecorded cultural resources or traditional cultural properties are encountered during construction, all ground disturbance activity within the area will be stopped until the resource can be evaluated and Reclamation can consult with the SHPO and evaluate the resources per 36 CFR Part 800.13. Reclamation and appropriate authorities will be notified, and all applicable stipulations of the NHPA will be followed. Activities in the area will resume only when compliance has been completed.

Responses Received to the Final Environmental Assessment



**STATE
HISTORICAL
SOCIETY
OF NORTH DAKOTA**

APR 24 2013

Jack Dalrymple
Governor of North Dakota

April 23, 2013

North Dakota
State Historical Board

Mr. Richard L. Long
Area Manager
Bureau of Reclamation
Dakotas Area Office
PO Box 1017
Bismarck, ND 58502

SEARCHED	INDEXED
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APR 24 2013	
FBI - BISMARCK	
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CONTROL NO.	
FOLDER I.D.	

Gereld Gertholz
Valley City - President

Calvin Grinnell
New Town - Vice President

A. Ruric Todd III
Jamestown - Secretary

ND SHPO REF.: 13-0794 BOR "Final Environmental Assessment Irrigation Water Service and Power Contracts for Heart Butte Unit, Heart Division - Morton and Grant Counties, North Dakota"

Albert I. Berger
Grand Forks

Dear Mr. Long:

Diane K. Larson
Bismarck

We reviewed ND SHPO REF.: 13-0794 BOR "Final Environmental Assessment Irrigation Water Service and Power Contracts for Heart Butte Unit, Heart Division - Morton and Grant Counties, North Dakota." We are in accord with the proposed guidelines regarding historic properties and culturally sensitive areas as outlined on pages 2-4 and 2-5 of this document.

Chester E. Nelson, Jr.
Bismarck

Margaret Puetz
Bismarck

Sara Otte Coleman
Director
Tourism Division

Thank you for the opportunity to review this document. Please include the ND SHPO Reference number listed above in any further correspondence for this specific project. If you have any questions please contact Susan Quinnell, Review and Compliance Coordinator at (701) 328-3576 or squinnell@nd.gov

Kelly Schmidt
State Treasurer

Alvin A. Jaeger
Secretary of State

Sincerely,

Mark Zimmerman
Director
Parks and Recreation
Department

Merlan E. Paaverud, Jr.
State Historic Preservation Officer (North Dakota)

Grant Levi
Acting Director
Department of Transportation

Merlan E. Paaverud, Jr.
Director

Accredited by the
American Alliance
of Museums since 1989



United States Department of the Interior

BUREAU OF RECLAMATION
Dakotas Area Office
P.O. Box 1017
Bismarck, North Dakota 58502



IN REPLY REFER TO:
DK-5000-12-01
ENV-6.00

APR 16 2013

Dear Interested Party:

The Bureau of Reclamation, Dakotas Area Office, has prepared a final environmental assessment (EA) for the issuance of long term (up to 40 years) Pick-Sloan Missouri Basin Program water and power contracts and reorganization of Lower Heart Irrigation Company and Individual irrigator contracting to become members of the Western Heart River Irrigation District, a new irrigation district, or other irrigation entity.

Reclamation has proposed to enter into long term irrigation water service contract renewal with the Company and the numerous individual water service contract holders and/or enter into a water service or repayment contract with the Western Heart River Irrigation District (District) or other entity and an electric power service contract with the District to increase the project use power "Contract Rate of Delivery" or CROD. No new acreage is being considered under the proposed action.

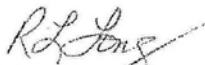
As the lead Federal agency, Reclamation is responsible for ensuring compliance with environmental and cultural resource laws. The EA evaluates the potential impacts to the human and natural environment associated with the proposed action, to issue long term Pick-Sloan Missouri Basin Project water and power contracts.

If no unaddressed significant environmental effects are identified during the review period, Reclamation will sign a Finding of No Significant Impact and proceed to issue a temporary water service contract and special use permit until long term contracts can be signed. However, if unaddressed significant environmental effects are identified during the review period, Reclamation will consider the preparation of a supplemental EA or the preparation of an environmental impact statement (EIS).

Reclamation defines significance in accordance with 40 CFR 1508.27 in reference to context and intensity.

We would appreciate your review and comments on the EA by May 15, 2013. Anyone interested in obtaining a copy of this document should write: Richard L. Long, Area Manager, Dakotas Area Office, Bureau of Reclamation, P.O. Box 1017, Bismarck, ND 58502 or contact H.D.LIFE SERVICE ECOLOGICAL SERVICES ND FIELD OFFICE Kelly McPhillips at 701-221-1287 or via e-mail at kmcpPhillips@usbr.gov.

Sincerely


Richard L. Long
Area Manager

Enclosure

Project as described will have no significant impact on fish and wildlife resources. No endangered or threatened species are known to occupy the project area and/or are not likely to be adversely affected. IF NO S&C DESIGN CHANGES ARE MADE, PLEASE SUBMIT PLANS FOR REVIEW

5-6-13 
Date Jeffrey K. Towner
Field Supervisor

Final EA Mailing List

HONORABLE HEIDI HEITKAMP
UNITED STATES SENATOR

HONORABLE JOHN HOEVEN
UNITED STATES SENATOR

HONORABLE KEVIN CRAMER
MEMBER UNITED STATES HOUSE

MR ERIC STASCH
OAHE PROJECT MANAGER

PRESIDENT
NORTH DAKOTA CHAPTER OF THE
WILDLIFE SOCIETY

STEVE DYKE
NORTH DAKOTA GAME AND FISH DEPT

HONORABLE CHAIRMAN
CHARLES W. MURPHY
STANDING ROCK SIOUX TRIBE

MR DAVID L. GLATT, PE, CHIEF
NORTH DAKOTA DEPARTMENT OF HEALTH
ENVIRONMENTAL HEALTH SECTION

MR JEFFREY TOWNER
FIELD SUPERVISOR
US FISH AND WILDLIFE SERVICE

MR TODD SANDO
STATE ENGINEER
NORTH DAKOTA STATE WATER
COMMISSION

US GEOLOGICAL SURVEY

FIELD OFFICE SUPERVISOR
DICKINSON FIELD OFFICE
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MR. DAVID KOLAND, GENERAL MANAGER
GARRISON DIVERSION CONSERVANCY
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MS. GENEVIEVE THOMPSON
AUDUBON DAKOTA CHAPTER

MR. GARY PEARSON

NATIONAL WILDLIFE FEDERATION

MR. SCOTT DAVIS
EXECUTIVE DIRECTOR
INDIAN AFFAIRS COMMISSION

MR MARK TRECHOCK
DAKOTA RESOURCE COUNCIL

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MR DANIEL E CIMAROSTI
BISMARCK REGULATORY OFFICE

THE NATURE CONSERVANCY

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USDA RURAL UTILITIES SERVICE

STATE CONSERVATIONIST
USDA NATURAL RESOURCE CONSERVATION
SERVICE

PRESIDENT DACOTAH CHAPTER
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ATTENTION MS SUSAN QUINNELL
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MORTON COUNTY AUDITOR

LOWER HEART IRRIGATION COMPANY

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LYNN HELMS
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GRANT COUNTY AUDITOR

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WESTERN HEART RIVER IRRIGATION DISTRICT

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