



STATE OF SOUTH DAKOTA
DENNIS DAUGAARD, GOVERNOR

August 27, 2012

Colonel Anthony C. Funkhouser
Commander, Northwest Division
U.S. Army Corps of Engineers
P.O. Box 2870
Portland, OR 97208-2870

Dear Colonel Funkhouser,

I want to thank the U.S. Army Corps of Engineers for coming to South Dakota to hear comments about how the draft surplus water studies will impact people who utilize the Missouri River reservoirs to meet their water needs. Our first comment is to request the 30 day comment period be extended for additional 60 days to provide adequate time for public input, given there are four reports to review.

The Corps' action to draft the surplus water reports raises a number of very serious concerns for South Dakota. The first concern is the Corps' disregard of individual state's rights to natural flows of the river. Natural flows are those flows that are in the river absent the reservoirs. Basin states have long enjoyed the right to issue water permits for the use of Missouri River water. The ability for states to manage their own water supplies for the benefit of their citizens is a well-established state's right, long recognized by the federal government. Other federal agencies such as the U.S. Bureau of Reclamation recognize natural flows in the design, construction, and operation of their projects. The Corps is ignoring the very real existence of natural flows and a state's right to manage its own water resources. States should have jurisdiction and access to natural flows through their state water right programs without needing contracts from the Corps.

Our second concern is one of equity. It appears from the Corps draft reports that water supply contracts will only be required for those users who divert directly from the mainstem reservoirs. If the purpose of the contracts is truly to recover the cost of reservoir operation and maintenance, it would seem only fair that all authorized uses of the stored water, up and down the entire river, share in the expense. Many of the Corps' own studies have documented the tremendous benefits people throughout the basin enjoy by having controlled water supplies, such as for water intakes, cooling purposes, hydropower, and, of course, flood control. Requiring upstream states to pay the entire cost with people in the downstream states enjoying these benefits at no cost is not equitable.

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A third concern relates to the Corps' assertion of control over all water in the Missouri River reservoirs. If the Corps has determined all water stored in the reservoirs is surplus water, this would allow the Corps to become the sole point of control of water used for current and future municipal and industrial use. Existing municipal and industrial water use in the reservoir reaches within South Dakota is less than the natural flow levels. Water supply from storage has not been and is not, in the foreseeable future, expected to be required to supplement these water supply needs. Therefore, the Corps has no jurisdiction or authority to charge fees for the water being drawn to meet those needs.

Please remember upstream states have already paid a heavy price for the Missouri River reservoirs. When the reservoirs filled, more than 500,000 acres of our most fertile river bottom lands were permanently flooded. Many citizens and tribal members were forced from their lands, homes, and communities. In return, the federal government promised South Dakota it would develop 950,000 acres for irrigation to help offset that loss. Today, only 25,000 acres have actually been developed - less than 3 percent of that promised. To impose all reservoir operation and maintenance costs on upstream states alone adds insult to that injury.

Thank you again for coming to South Dakota, and thank you for considering our request to extend the comment period.

Sincerely,

A handwritten signature in black ink that reads "Dennis Daugaard". The signature is written in a cursive, flowing style.

Dennis Daugaard

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