



United States Department of the Interior

BUREAU OF RECLAMATION
Great Plains Region
Nebraska-Kansas Area Office
P.O. Box 1607
Grand Island, Nebraska 68802-1607



IN REPLY REFER TO:

NK-100
WTR-4.00 AIN

JAN 07 2004

Brent Johnson, President
Ainsworth Irrigation District
Rural Route 2, Box 82
Ainsworth NE 69210

Subject: Status of the Proposed Ainsworth Unit Title Transfer, Ainsworth Irrigation District, Ainsworth Unit, Sandhills Division, Pick-Sloan Missouri Program, NE

Dear Mr. Johnson:

This letter is to provide the Ainsworth Irrigation District (District) with current information concerning the National Environmental Policy Act (NEPA) compliance process for title transfer. Reclamation received an electronic version of the preliminary Draft Environmental Assessment (DEA) from ERI on December 5, 2003, and we are currently reviewing the document.

The development of alternatives for the DEA was based on the assumption that a management agreement has been (or would be) signed with the Nebraska Game and Parks Commission (Commission) before the NEPA compliance process was completed. The analysis of alternatives in the preliminary DEA is predicated on this assumption and the premise that the operation of the Ainsworth Unit will remain unchanged following title transfer. To date, it is our understanding a management agreement has not been signed and it appears little progress has been made toward reaching such an agreement.

Development of a management plan to protect public values following title transfer is a major criterion of Reclamation's Title Transfer Framework (Framework) and is an important element in the analysis of alternatives evaluated in the NEPA process. We informed the District of the significance of a management plan shortly after being notified of the District's desire to pursue title transfer. With the current lack of progress made toward reaching an agreement, it is not reasonably foreseeable that operations at Merritt Reservoir would remain unchanged following title transfer and it would be unreasonable for Reclamation to make that assumption in the environmental analysis. Thus, possible changes in operations may result in potentially significant environmental effects and will require that we identify, evaluate, and disclose all potentially significant environmental effects that may result from the proposed Federal action. Furthermore, where a proposed Federal action has the potential to produce significant environmental effects, the Council on Environmental Quality's regulations implementing NEPA require the preparation of an environmental impact statement (EIS) (40 CFR 1502).

Reclamation is at an important point in evaluating the District's title transfer proposal. We have received a preliminary DEA that is based on an unreasonable assumption; there is public and agency controversy associated with the proposal though the District is encouraging Reclamation to proceed quickly with title transfer. Based on these circumstances, we believe the District should consider one of the following options:

1. The District could continue to pursue title transfer to the Ainsworth Unit without a management agreement with the Commission. Without an executed management agreement or positive indication that the Commission will sign an agreement, Reclamation will require preparation of an EIS to evaluate the title transfer proposal. As previously mentioned, protection of the public values associated with a project is a criterion of Reclamation's Framework and that adequate protection of such values would be considered in the Record of Decision (ROD). If the District chooses to pursue title transfer through development of an EIS, you should be aware that Reclamation is required by regulation (40 CFR 1506.5(c)) to select the contractor(s) involved in the preparation of the EIS. Furthermore, it is not likely that an EIS can be completed and a ROD signed before the District's water service contract expires.

2. The District could suspend review and further preparation of the DEA until a management agreement has been developed or the District makes significant progress with the Commission towards developing a management agreement. Reclamation and ERI would cease work on the DEA until details of the executed agreement are available for inclusion in the DEA. This additional information would help support the alternative analysis currently described in the preliminary DEA and also allow for a complete detailed analysis of all these alternatives. Should the District select Option 2, Reclamation could continue to proceed with specific NEPA activities that would not be affected by the absence of a management agreement such as safety of dams analysis, endangered species analysis, and coordination activities with the U.S. Forest Service.

If you have questions or wish to discuss this further, you can contact me at 308-389-4622, extension 216.

Sincerely,



Stephen F. Ronschaugen
Acting Area Manager

cc: Harlan Welch, Chester Wilkins, Donald Fling, Ainsworth Irrigation District,
RR 2 Box 82, Ainsworth NE 69210
GP-1000 (Bach, Beek)
GP-4200 (G. Davis)
GP-4300 (R. Peterson)