

# Mni Sose News



Newsletter of the Mni Sose Intertribal Water Rights Coalition, Inc.  
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## Deadline for Tribal Reserve Contracts Approaches Quickly!

The Tribes who do not sign and submit their reserve contracts to Western Area Power Administration (WAPA) will lose out on their allocation of low-cost hydropower beginning in the year 2001.

WAPA Public Utilities Specialist, Jon Horst, said 6 of 25 Tribes have not yet signed reserve contracts.

He said WAPA officials anticipate the tribal allocations not reserved will be returned back to the firm power customers or marketed as non-firm energy.

The reserve contract preserves the Tribe's allocation of hydropower but does not obligate the Tribes to one cent.

WAPA officials want to have the reserve contracts returned signed by **July 15, 1998**, or be notified of the Tribes' intentions.

In July 1997, WAPA began meeting with individual Tribes to begin consultations on the reserve contracts. The process took until January of 1998 before all of the contracts were introduced to the 25 Tribes eligible for the Post-2000 resource pool of the Pick-Sloan Missouri Basin Program, Eastern Division.

After a contract was introduced to a Tribe, the Tribe had six months to submit a signed copy to WAPA unless extended. Horst, who is the lead for the WAPA/Tribal contractual arrangements, is concerned because tribal resolutions have been signed, but the reserve contracts have not been signed and returned.

### Benefit Amendment-Phase Two

Once the reserve contract period has been completed, the Tribes will enter into the second phase of the contract—the benefit amendment—which is an arm to the reserve contract.

Horst said the benefit amendment will be a greater challenge than the reserve contract.

The major provisions of the amendment include:

- Preamble: identifies the contract's parties
- Explanatory recitals: outlines the purpose of the benefit amendment. The contract will state the Tribe does not have to receive the benefit in the year 2001. Rather, the Tribe determines when the benefit will begin.
- Term of the contract amendment: runs concurrently with the term of the reserve contract which runs January 1, 2001-December 31, 2020 (a 20-year contract, or less if the Tribe chooses to begin the contract after January 1, 2001).
- Provision for identifying the method the Tribe chooses for receiving the benefit. The choices include:
  - bill crediting by the cooperative currently serving the Tribe

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- rate structuring by a cooperative willing to have a lower rate for the Tribes receiving hydroelectric power from WAPA
- tribal utility
- benefits directly to the Tribes. WAPA has stated publicly (e.g., in the Federal Register) if the Tribes experience unanticipated obstacles for the delivery of hydropower benefits, WAPA would reserve the right to pass the benefits directly to the Tribes.
- additional options. WAPA is willing to listen to other proposed options.

Each Tribe will need to determine the option which will best benefit the Tribe. That decision will need to be made by the Tribe, not the cooperatives or WAPA.

WAPA's Integrated Resource Plan includes a provision that states if WAPA is sold, and the sale is detrimental to the Tribes, the Tribes may terminate their contracts. Any successor to WAPA must honor the existing contracts.

The Tribes have 2½ years to get the benefit amendments signed to receive power by January 1, 2001.

### **Mni Sose's Role in Accessing Tribal Hydropower**

The Flood Control Act of 1994 authorized the Army Corps of Engineers to build six dams on the Missouri River main stem.

Although 350,000 acres of Indian land were taken for this project, the Tribes have shared none of the revenue from the \$1.3 billion annual economic benefit. In fact, Tribes pay the highest electrical rates in the nation even though the area's reservation populations are listed by the Census Bureau as the poorest in the nation.

Since its inception in 1993, the Mni Sose Intertribal Water Rights Coalition has worked toward ensuring that the Tribes receive some of the benefits of the project by securing low-cost hydropower from the main-stem dams for the Tribes.

### **Mni Sose Website**

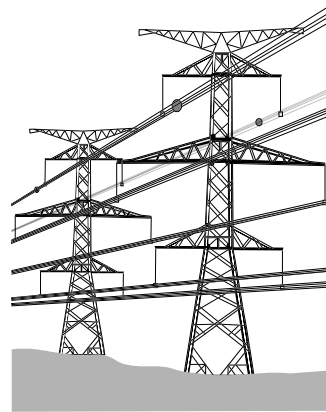
Visit the Mni Sose Intertribal Water Rights Coalition's homepage on the Internet at:

[www.mnisose.org](http://www.mnisose.org)

In June 1994, Wilbur Between Lodges, Chairman of the Oglala Sioux Tribe, testified on behalf of the Mni Sose Coalition at the House Natural Resource Committee's hearing on the failure of WAPA to provide power allocations to Missouri River Basin Tribes. WAPA's contention was the Tribes were not utilities and, therefore, could not apply for the hydropower resource pool available in 2001.

Based upon the efforts of Chairman Between Lodges and Mni Sose, the requirement that the Tribes obtain utility status to receive hydropower was eliminated and a WAPA/Tribal work group was formed.

Working with WAPA, Mni Sose has sponsored a series of meetings and educational seminars with Tribes, independent utility consultants, and rural electric cooperative personnel to ensure that the Tribes will be "ready, willing, and able" to receive an allocation of hydropower in the year 2001.



### **Mni Sose Receives Utility Development Grant**

The Mni Sose Intertribal Water Rights Coalition will receive a two-year grant from the Department of Health and Human Services to maximize benefits of the tribal allocation from WAPA's Post-2000 resource pool of the Pick-Sloan Missouri River Basin Program.

The Coalition's Tribal Utility Development program will include training:

to collect data and analyze the Tribes' present and unmet energy demands for contracting purposes.

in negotiations with local electric cooperatives for receipt of WAPA power that will be available to Tribes.

in utility governance, management systems, and financing of tribal utility departments.

The program participants include the Crow Tribe, the Flandreau Santee Sioux Tribe, the Lower Brule Sioux Tribe, and the Sisseton-Wahpeton Sioux Tribe.

## Energy Conference Will Address Benefit Contract

The Mni Sose Intertribal Water Rights Coalition will host an energy conference entitled "Developing Tribal Energy Strategies for the New Millennium" on August 12 and 13, 1998, in Billings, Montana.

A high-priority item to be discussed at the conference is the benefit options available to the Tribes. During the benefit amendment phase, each Tribe must identify the method the Tribes will use to receive the hydro-power benefits.

Officials from the cooperatives that serve the Tribes will also be invited to participate in the conference.

See the article below for preliminary information on the conference. For further information, please contact the Coalition at (605) 343-6054 or visit the Coalition's website at: [www.mnisose.org](http://www.mnisose.org).

## Developing Tribal Energy Strategies for the New Millennium

August 12 and 13, 1998

Sheraton Billings Hotel-Billings, MT

### Agenda Items

- The Role of Cooperatives and Investor-owned Utilities
- Tribal Governance and Electrical Regulation
- Exploring the Potential of Establishing a Tribal Utility
- Developing Electric Power Rates (Present and Future)
- Fundamentals of Electricity
- Transmission Services
- Legal Issues for Tribes
- Tribal Options Beyond WAPA
- The Benefit Amendment

### Registration Form

Name: \_\_\_\_\_

Tribal (or other) Affiliation: \_\_\_\_\_

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

\_\_\_\_\_ Fax: \_\_\_\_\_

Conference Cost: \$100 (includes banquet on August 12)

Method of Payment: \_\_\_\_\_ Check Purchase \_\_\_\_\_ Order Number \_\_\_\_\_

Make check payable to:  
**Mni Sose Intertribal Water Rights Coalition**  
 P.O. Box 2890  
 Rapid City, SD 57709-2890  
 (605) 343-6054      (605) 343-4722 (fax)

Sheraton Billings Hotel  
 27 North 27th Street, Billings, MT 59101  
 1-800-588-7666  
 Call before July 28, 1998, to reserve a  
 \$52 room in the Mni Sose block



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**Mni Sose Mission Statement**

The Coalition's mission is to protect and defend the *Winters* Doctrine (reserved water rights) and other water rights of Indian Tribes in the Missouri River Basin, whether based on riparian or prior appropriation principles, and/or recognized under treaty, federal law, international law, tribal law, or other local law in coordination and collaboration with member Tribes. The Coalition is organized and operated according to the requirements of the Coalition member Tribes and the United States regarding the existence and operation of non-stock, non-profit corporations.