

Mni Sose News



Newsletter of the Mni Sose Intertribal Water Rights Coalition, Inc.

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Federal Resources Guidebook Will Serve Basin Tribes

The Missouri River Basin Tribes will soon have ready access to information on improving water quality, watershed conditions, and adverse environmental problems on tribal lands. *The Federal Resources Guidebook on Water Resources and Environmental Programs* will be distributed to tribal officials in March.

The resource document describes all existing training opportunities, technical assistance, and funding programs agencies provide for Missouri River Basin Tribes.

The guidebook is the result of two years of compilation by the Mni Sose Coalition and the Bureau of Reclamation, Great Plains Region.

A number of federal and other agencies provided material and input for the guidebook. Those agencies include: Bureau of Recla-

mation, Indian Health Service, Bureau of Indian Affairs, Montana State University/Northern, Environmental Protection Agency, Army Corps of Engineers, Natural Resources Conservation Service, and the U.S. Geological Survey.

Representatives from the agencies attended the Northern Plains Partnership Conference on October 22, 1997, in Billings, Montana. The conference, hosted by Mni Sose and the Great Plains Region of the Bureau of Reclamation, was also attended by tribal natural resource officials. The tribal and governmental participants provided their ideas and suggestions on how to improve the guidebook. The conference also provided a forum to discuss outstanding issues and to develop net-

The guidebook will also be included on the Coalition's website

Executive Director's Report: Mni Sose's 1998 Indian Water Rights Conference

The Mni Sose Intertribal Water Rights Coalition kicked off 1998 with an Indian Water Rights Conference on January 29, 1998, in Rapid City, South Dakota.

The conference centered around the theme of *Enhancing Indian Sovereignty Through Water Resource Management*. We were fortunate to have excellent speakers cover topics such as water resource management and conservation in Indian Country, tribal sovereignty and environmental management, alternatives to the Army Corps' Preferred Plan for the Master Manual, and BIA priorities for the year 2000.

Luncheon speaker William Yellowtail, Regional Administrator for EPA Region VIII, spoke on the importance of increasing tribal participation in environmental protection.

I thank all who attended for making the conference a productive beginning to 1998.

(www.mnisose.org). The guidebook will be updated on a regular basis.

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Legislative Update

by Pete Taylor of Ducheneaux, Taylor and Associates

At the Coalition's 1998 Annual Board meeting held on January 30, 1998, in Rapid City, South Dakota, Pete Taylor of Ducheneaux, Taylor and Associates provided the delegates with the following review of legislative activity in Washington, D.C.

In the 105th Congress, there are three general categories regarding tribal sovereign immunity: immunity of Tribes from suits in federal or state courts, immunity of Tribes from federal taxes, and Indian gaming.

What Senator Slade Gorton was trying to do in the 104th Congress was place the Lumni Tribe from the state of Washington under state jurisdiction generally on all of these issues—literally, a McCarren Amendment for any kind of issue where the Tribe is involved with a non-Indian. His concept expanded into the 105th Congress that extended it beyond just the Lumni Tribe to include Tribes that receive any federal funds.

Also in the 105th Congress, the chairman of the House Ways and Means Committee put a tax provision into the general federal tax legislation called the UBIT tax. His notion was to impose this UBIT tax on any income gained by an Indian tribal gaming operation. But the proposal quickly grew to one of simply imposing such a tax on any tribal business operation.

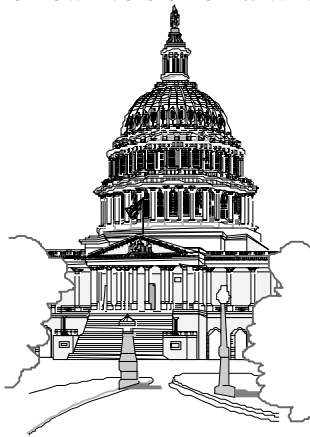
On Indian gaming, Senator John McCain and Senator Daniel Inouye are working on amendments on how the Tribes deal with the states on Class III gaming and trying to deal with Senator Harry Reid from Nevada who wants to see regulations tightened up on the monitoring of Indian gaming and the rules under which Tribes would

operate gaming.

There are also people generally opposed to gaming across the board due the idea that Indian gaming might come into their states because of the activities of their own states.

In the last week of the first session of Congress, Congressman Young introduced a bill dealing with fractionated heirship lands. This is something that Mni Sose could probably be involved in because it is active with water rights and associated resources. It is a problem that has been with us probably since 1885 when we started into the Allotment Act and just grows worse every day.

The administration bill was introduced on the House side. On the Senate side they have been drafting their own version of it. What is ex-



pected to happen on the Senate side would be that the administration version of the bill will be introduced and the Indian land working group version would be introduced so they would have two bills on the Senate side. Those should come in within the next three weeks, and it's ex-

pected that hearings would be set up on that legislation.

In the 104th Congress, there was an interesting movement by Mr. Bereauter to strip Tribes of the authority to operate FIFRA (Federal Insecticide, Fungicide, and Rodenticide) programs. Mni Sose Tribes played very, very active roles in beating back the Bereauter amendment. Senator Johnson, who (at the time) had been a representative, enabled us to get FIFRA defeated. We thought, at the time, that whatever happens on FIFRA is going to be a bellwether for how things work on other legislation.

Also in the 104th Congress, the House passed a version of the Clean Water Act that would have stripped Tribes of their authority to regulate clean water within the boundaries of reservations. It was hotly debated on the House side in the 104th Congress and did, in fact, pass the House but died in the Senate. At the moment, there is no Clean Water bill on either the House or Senate side.

The Administration for Native Americans (ANA) has been functioning without authorization for at least three years. The Ducheneaux and Taylor firm has been working with the Native American Rights Fund trying to lobby re-authorization legislation for that. ANA, like a number of other federal agencies, is basically functioning without authorization legislation, but Congress continues to appropriate the money. Everyone wants to re-authorize ANA, but it is currently tied to the

Older Americans Act and the House won't move one without the other.

The other area Mni Sose has been very interested in is electrical regulation. In the 104th Congress, there was discussion of privatizing power marketing administrations (PMAs). The sale of the Alaska Power Administration was authorized and was apparently very non-controversial. Western Area Power Administration, Southeast and Southwest Power Administrations, and Bonneville are the remaining PMAs.

In the 104th Congress, the Clinton administration sent a budget to Congress anticipating the sale of the private marking administrations. The Senate, in taking up the budget resolution, voted to strip that out by more than 60 votes. The administration no longer proposes the sale. However, the notion of privatization has become a part of the mix of considering electrical deregulation generally.

Community-Based Environmental Protection Conference

The Mni Sose Intertribal Water Rights Coalition and Environmental Protection Agency's Regions VII and VIII hosted a community-based environmental protection (CBEP) conference, on October 21, 1997, in Billings, Montana.

The meeting was attended by natural resource officials from the Coalition's member Tribes.

Deldi Reyes, from EPA Region VIII, explained that the CBEP process involves:

- convening the collaborating problem-solving process
- identifying problems and setting goals
- understanding issues and the needs of the stakeholders
- developing options
- evaluating options
- agreeing on preferred options
- implementing preferred options
- monitoring and adjusting

Reyes, said that throughout this process, the stakeholders need to be committed to working collaboratively.

Cathy Tortorici, from EPA Region VIII, discussed the CBEP program currently in

progress with the Mni Sose Coalition.

The goal of the Mni Sose project is to provide the Missouri River Basin Tribes with the tools to solve environmental problems on tribal lands.

The CBEP approach involves solving environmental problems that are initiated by the people concerned about the problem rather than the federal government or other outside parties.

The tribal participants broke into subgroups where each tribal representative provided a problem statement and identified the stakeholders involved.

Three Tribes then shared their CBEP tribal experiences. Bill Allen from the Kickapoo Tribe of Kansas discussed problems with illegal dumping on his reservation.

Jim Stone, from the Yankton Sioux Tribe, described a problem with the release of oil at the Marty Indian School.

Pat Spears, from the Lower Brule Sioux Tribe, discussed water quality problems on his reservation.

Mni Sose Website

The Mni Sose Coalition has its own homepage on the Internet at www.mnisose.org. Tribal and governmental personnel, as well as the general public are invited to access the Coalition's homepage on a regular basis in order to receive up-to-date information on water resources and water rights issues affecting the Tribes located in the Missouri River Basin. Comments and suggestions on the Coalition's homepage

Mni Sose Intertribal Water Rights Coalition Responds to the Western Water Policy Review Advisory Commission Draft Report

In October 1997, the Western Water Policy Review Advisory Commission released its draft report of federal activities affecting the allocation and use of water resources in the West.

In December 1997, the Mni Sose Intertribal Water Rights Coalition provided the Commission with comments on the draft report.

The Coalition remarked that the draft contained many positive, important insights and recommendations including:

- a recommendation to utilize hydroelectricity to finance tribal water projects and Indian claims;
- a recommendation to lift the Secretarial Moratorium on the approval of tribal water codes;
- a recommendation to increase federal funding for Indian irrigation and domestic water supplies, and in some instances, for quantification of Indian reserved water rights;
- support for marketing Indian water;
- recognition of tribal roles in establishing and enforcing water quality standards under Section 106 of the Clean Water Act;
- an emphasis on a holistic, basin-wide perspective in watershed management.

However, the Coalition voiced concern with the draft report's scant treatment of Indian reserved

water rights. The Coalition's concerns are summarized as follows:

- serious lack of adequate emphasis and consideration given to Indian water rights;
- overemphasis on quantification of Indian water rights and inadequate emphasis on Indian water development;
- the Coalition opposes transferring water projects and watershed management duties to states and regional entities;
- the lack of discussion and recommendation concerning the McCarran Amendment and its detrimental impact on Indian water rights;
- ambivalence to federal hydro-power generation which the Coalition sees as a potential resource for the financing of Indian water projects and for tribal claims;
- lack of discussion and recommendations concerning the conflict of interest in the U.S. Departments of Interior and Justice;
- lack of a substantive discussion of the federal trust obligation as it relates to Indian water;
- lack of discussion and recommendations for potential changes in operations of federal water projects to fulfill Indian reserved water rights;
- lack of discussion and recommendations for the protection of

native cultural resources from impacts on non-Indian water projects.

A complete copy of the Coalition's comments can be obtained by contacting the Coalition at (605) 343-6054 or visiting the Coalition's website.

The Western Water Policy Review Advisory Commission was chartered by the Secretary of the Interior in 1995 to conduct a comprehensive review of federal activities in the 19 Western states affecting the allocation and use of water resources. The Commission was directed to submit a report of its findings to the President and Congress.

The Commission is scheduled to send a final report to the President and Congress in March 1998.

Mni Sose Newsletter Moves to the Internet

This will be the final edition of the Mni Sose newsletter mailed to our readers.

Beginning with the next edition, the Mni Sose News will only be accessible on Mni Sose's homepage.

Visit the Coalition's website at www.mnisose.org

Coalition Provides Tribal Emergency Preparedness Training

In light of the blizzards and floods that hit tribal lands in North and South Dakota last year, the Mni Sose Coalition has received a grant from the BIA to provide assistance to Missouri River Basin Tribes in preparedness planning for natural disasters.

As part of the training, the Coalition held a Tribal Emergency Management and Response Systems workshop on November 25, 1997, in Rapid City, South Dakota.

Rick Weiland, Regional Director of the Federal Emergency Management Agency (FEMA), Region VIII, discussed his goals for providing more emergency assistance to Tribes.

Weiland said he plans to do everything he can within the scope of his authority to make FEMA a reality in Indian country. He said a mechanism needs to be put into place to fund emergency management in every reservation in the country.

Weiland said the purpose of the Project Impact Initiative is to find ways to prevent disasters from happening through mitigation, prevention, and by preparing villages, townships, and communities in a way that the loss of life and the destruction of property can be prevented.

Weiland intends to identify two communities in Indian country willing to take on disaster resistance to be part of the Project Impact initiative.

Scott Logan, Emergency Analyst for FEMA, Region VIII, discussed the agency's implementation of the President's Govern-

ment-to-Government Policy and how FEMA works with Tribes during emergency situations utilizing communication and consultation.

Logan stressed that FEMA is supposed to ensure that the agency's policies and procedures don't interfere with tribal rights to self-governance.

Logan said FEMA is trying to assist the Tribes in getting access to the things that are available from the federal government before a disaster is declared.

One of the most important needs Logan sees is for reservations

having a number of different emergency services such as law enforcement, public safety, and environmental staff to build a comprehensive emergency management system.

An official who has the authority to coordinate all of the resources on the reservation needs to be delegated to bring those resources and personnel to bear on a particular problem.

Logan's observation is that official is usually the Chair. However, because the emergency management

Mni Sose Coalition Elects Officers for 1998

At the Coalition's January 30, 1998, Board of Director's meeting, the following delegates were elected to serve on the Executive Committee for 1998:

President.....David Archambault*
Tribal Council Member, Standing Rock Sioux Tribe

Vice President.....Randy Perez*
Water Resource Department, Fort Belknap Indian Community

Treasurer.....Rhonda Azure*
Environmental Protection Director, Turtle Mountain Chippewa Band

Secretary.....Lucille Big Fire
Water Resource Coordinator, Winnebago Tribe of Nebraska

*Incumbent

process can be an overwhelming process the chair needs to appoint someone to handle the process and help to make the broad decisions that need to be made during an emergency. The ideal approach would be to establish an office to put together a comprehensive emergency plan.

The Standing Rock Sioux Tribe was particularly hard hit during the blizzard of 1997. Pete Red Tomahawk, Transportation Planner/Highway Safety/Tribal Roads Maintenance and Snow Removal for the Tribe discussed how his Tribe dealt with last year's crisis.

He also discussed his ideas on organizing a tribal emergency preparedness program. Red Tomahawk said his Tribe is working toward merging eight separate management plans currently used by the Tribe into one comprehensive plan.

John Anevski, Safety of Dams Coordinator, for the Billings Area Bureau of Indian Affairs, discussed dam safety procedures.

The BIA's responsibilities include emergency management for the safety of dams, inspecting dams, and overseeing maintenance work on the dams.

Since 1990, the BIA's dam safety program has repaired a number of dams, has created an awareness of the dams on the reservations, and has improved emergency management.

Missouri River Basin Association Update

Officers

At its November 3, 1997, Board of Director's meeting, the Missouri River Basin Association (MRBA) elected its officers for 1998.

Richard Bad Moccasin, Executive Director of the Mni Sose Intertribal Water Rights Coalition, was re-elected as Secretary of the Association, a position he has held since 1996.

Other officers elected were:

President Bud Clinch
Director of Montana Dept. of Natural Resources and Conservation

Vice President David Pope
Director of the Kansas Division of Water Resources

Treasurer Jeff Fassett
Engineer for the State of Wyoming

MRBA Planning Document

The MRBA held a basinwide planning conference in November 1997 to produce methods for improving a planning document on the operation of the Missouri River that the MRBA has been compiling for the past two years.

After the document is disseminated in April, the MRBA will work with Congress and governmental agencies, such as the U.S. Army Corps of Engineers, to implement the report's recommendations.

The MRBA document includes recommendations for the following areas: navigation, recreation, fish and wildlife, agriculture and bank stabilization, water supply, flood control, and hydropower.

South Dakota Rejoins MRBA

After terminating its membership with the MRBA for two years, the state of South Dakota rejoined the Association at its November Board meeting. South Dakota hosted the December 1997 meeting in Sioux Falls, at which time South Dakota Governor Bill Janklow made a presentation..

Website

Visit the Missouri River Basin Association homepage at:
<http://www.swc.state.nd.us/mrba>

Water Resource Management Meeting

The Mni Sose Coalition has hosted two water resource management meetings with the Tribes located in Kansas since the beginning of 1998.

Meetings were held on January 13, 1998, and February 18, 1998, on the Prairie Band of Potawatomi Reservation.

Participants in the meetings included representatives from the Kickapoo Reservation in Kansas, the Sac & Fox Nation of Missouri, the Prairie Band of Potawatomi Nation, the Bureau of Reclamation, the Bureau of Indian Affairs, and the U.S. Geological Survey.

The participants met to identify potential water resource benefits for the Kansas Tribes as the Tribes engage in management of their tribal homelands.

A follow-up meeting will be held March 25, 1998, on the Prairie Band of Potawatomi Reservation.

Mni Sose Intertribal Water Rights Coalition Tribal Delegates

| | |
|--|-----------------------|
| Assiniboine & Sioux Tribes of Fort Peck | Tom Escarcega |
| Cheyenne River Sioux Tribe | Louis DuBray |
| Chippewa Cree Tribe | Roger St. Pierre, Sr. |
| Crow Tribe | Steve Stevens |
| Crow Creek Sioux Tribe | Donald McGhee |
| Eastern Shoshone Tribe | Ivan Posey |
| Flandreau Santee Sioux Tribe | Samuel H. Allen |
| Fort Belknap Indian Community | Randy Perez |
| Kickapoo Tribe in Kansas | Paul Cadue |
| Lower Brule Sioux Tribe | Boyd Gorneau |
| Northern Arapaho Tribe | Gary Collins |
| Northern Cheyenne Tribe | John Grinsell |
| Oglala Sioux Tribe | Gerald Big Crow |
| Omaha Tribe of Nebraska | Doran Morris |
| Ponca Tribe of Nebraska | Alex Taylor |
| Prairie Band of Potawatomi Nation | Benny Potts |
| Rosebud Sioux Tribe | Ben Black Bear, Jr. |
| Sax & Fox Nation of Missouri | Curtis Gilfillan |
| Santee Sioux Tribe of Nebraska | Jim White |
| Sisseton-Wahpeton Sioux Tribe | Kyle Williams |
| Spirit Lake Tribe | Frank Myrick |
| Standing Rock Sioux Tribe | David Archambault |
| Three Affiliated Tribes of Fort Berthold | Texx Lone Bear |
| Turtle Mountain Band of Chippewa Indians | Rhonda Azure |
| Winnebago Tribe of Nebraska | Lucille Big Fire |
| Yankton Sioux Tribe | Jim Stone |

Tribal Community Profiles

The Mni Sose Intertribal Water Rights Coalition is in the process of compiling community profiles for each of its 26 member Tribes. The profiles include information on tribal governments, land status, culture, history, tribal economy, environmental issues, public utilities, community services, and recreation.

The profiles will provide tribal leaders with a better understanding of the resources available to their respective Tribes. Tribal leaders can utilize the data during active dialogues with academic, governmental and scientific communities about the best management practices for the resources of the tribal communities.

With the consensus of each member Tribe, the community profiles will be posted on the Coalition's website.

The Coalition is compiling the profile data with assistance from a grant from the Environmental Protection Agency.



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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.