

Missouri River Master Manual
Tribal Orientation Conference
September 12-14, 2001

Tape # 1

September 12, 2001 A.M. Randy Perez – Mni Sose and Rose Hargrave

Perez: This paper, that's available I will give it to Rose so she can make a copy of it and share with the participants here. I've got my fax copy and this copy I got off of the Internet.

Hargrave: Great, thank you.

Perez: Getting back to the Master manual, being on the Mni Sose Coalition, since it started in the early 90s, one of the very hot items that the Coalition has talked about. We've got some discretion with it; we've had some meetings with the Corps of Engineers; we have gone to Omaha and the Coalition has sponsored meetings at Rapid City and kind of put them on for the Master Manual. Its still a very...it's an item that many of the tribes that are with the Coalition have a very strong point of view on. They feel that the water rights on the Missouri River technically is...it's something that they wish to retain and identify, but I'll get into the discussions here and I'll read this paper here. Supposed to last about a half hour I guess...9:30. I'll read this and this will be our position paper.

The protection and management of tribal water and land resources in the Missouri River watershed are among the most critical priorities facing the 28 basin Tribes.

Indian Tribes control more than 15 million acres of land within the watershed, geographically distributed from the headwaters in Montana to the mouth of the Missouri River in Kansas and Missouri. These reservations were set aside for use and development as permanent tribal homelands.

Despite historical and legal rights to the water, the Tribes have not participated fully in the benefits of the Missouri River water resources and its tributaries. Three hundred and fifty thousand acres of land, or twenty-three percent of the 1,499,759 acres taken for the construction of the dams and reservoirs under the Pick-Sloan plan, were lands of the Tribes. Although the Federal government promised irrigation development and participation in the electricity generation, the Tribes are only beginning to receive these benefits.

Tribal leaders are seeking legal, administrative, economic, and physical control over their significant water resources as a means to achieve sustainable reservation economy, cultural well-being, and sovereignty of tribal people in the watershed. The Mni Sose Intertribal Water Rights Coalition was formally organized in 1993 as the mechanism to pursue these goals.

The Coalition's objectives are to strengthen tribal capabilities to manage, control, and protect tribal water resources pursuant to tribal goals and values as defined by tribal law. In addition, the Coalition seeks to enhance tribal capabilities to implement environmental programs pursuant to federal law.

For decades, inadequate financial resources have prevented the control, management, use, and jurisdiction by the Tribes over their water resources in the Missouri River Basin. This results in inadequate consideration of tribal legal entitlement to water. Inappropriate social, governmental, economic, and organizational mechanisms at the tribal, federal, and state levels result in the failure to incorporate tribal input in policy formation. Furthermore, the Tribes have not had the opportunity to participate in the social and economic development process for the management of the Missouri River. Yet, control over the water resources in the Missouri River Basin is central to the sovereignty and self-determination of the Tribes. It is a key to their survival, economic prosperity, cultural strength, and development.

The Tribes have great diversity in water resource management skills and expertise. Each Tribe has particular water resource issues existing on its reservation. Although each Tribe has specific areas of concern, they realize that legal and regulatory actions by other agencies may set precedents and binding decisions that affect all Basin Tribes. The Tribes are aware that they must act in concert to address these issues to assure that present actions or inactions of an individual Tribe do not constrain tribal alternatives in water resource management.

The following problems confronting the Tribes as they address the myriad of water rights issues in the Basin:

1 . The Tribes lack participation in the management of the Missouri River water system.

The Army Corps of Engineers and state governments previously ignored tribal and Indian water rights in the management of the Missouri River. However, through the Coalition's involvement with the Missouri River Basin Association, the States and the Army Corps now recognize tribal impacts and issues related to the future operation of the Missouri River.

In addition, the states have also threatened Indian water rights by invoking the McCarran Amendment. Tribal intergovernmental relations are tribal federal relations, not tribal/ state. However, when Congress waived the sovereign immunity of the United States in water rights adjudications under the McCarran Amendment, the U.S. Supreme Court allowed adjudication of Indian water rights, some of the most valuable treaty rights of the Tribes, in state courts. State governments, typically representing non-Indian water users in competition for Indian water, exert strong influences rendering no fair or meaningful state forum in which to address Indian water issues.

In the 1940s and 50s, the federal government constructed massive water facilities including dams, hydroelectric facilities, canals, navigation structure, and flood control features on or next to most of the Indian reservations. Tribal people still remember watching in horror as communities, prime bottom lands,

riparian areas, forests, and grave sites were inundated by the construction of these facilities and the water siphoned away from the Reservations.

The Corps of Engineers has estimated that its operation of the Missouri River dams contributes \$1.3 billion to the national economy annually. Of that figure, one-half is derived from the sale of hydroelectricity by the Department of Energy. The remaining contribution comes in the form of navigation benefits, flood control benefits, and recreation development.

Yet the Tribes share little of these revenues. In fact, reservoir level fluctuations impact tribal environment and wildlife habitats, and native burial grounds and ceremonial sites are subject to erosion and inundation.

2. The Missouri River Basin Tribes lack the technology and technical skills to participate, on a meaningful level, with state and federal agencies in the management of the Missouri River Basin.

A broad-scale and cooperative tribal resource management effort is needed to insure effective tribal participation in water resource management and development. The Missouri River Basin Tribes must compete with the Army Corps of Engineers and other federal and state agencies possessing vast fiscal and human resources.

The Tribes need to cooperate and collaborate among themselves to decide and

identify alternatives regarding water resource management. Individual Tribes, especially smaller Tribes, lack the necessary fiscal resources to employ technicians and professional hydrologists to collect, analyze, and interpret data in Indian water rights issues. They need experienced professionals to advise tribal leaders and their staff on the development and management of agricultural lands and systems. These professionals are necessary to track and calculate tribal water entitlements; inventory, assess, and remediate environmental problems; evaluate and protect community health; market and develop tribal water resources; and operate tribal drinking water and waste water facilities.

3. Even if federal agencies would like to involve Tribes as cooperating agencies in the management of the Missouri River, Tribes lack the resources to collect and analyze the data before making their recommendations.

The Missouri River Basin tribal natural resources and water resource offices depend on discretionary funding from federal agencies for maintenance of their operations. They derive the bulk of this funding from the Bureau of Indian Affairs and other governmental agencies, with annual funding priorities mandated by Congress. The Tribes are vulnerable to the annual fluctuations in Federal funding, which inhibit long-term planning. The agencies have neglected the smaller Tribes as to funding, training, technical assistance, and Federal outreach.

New Federal requirements for drinking water protection, solid waste control, non-point source pollution abatement, and hazardous waste have affected Indian reservations. Tribes have been charged with implementing these legislative regulations and rules with inadequate federal funding. The Tribes must take the lead in the development of these codes and regulations or be subjected to state-imposed codes. Tribes need critical skills to carry out these programs pursuant to current and additional federal laws. Such skills include sound technical capabilities and administration, policy, and managerial skills.

4. The Missouri River Basin Tribes, individually, have been unable to address water rights issues due to the Federal agencies' complex infrastructure, geographical isolation, and lack of technical skills and technology.

The current legal environment for the resolution of tribal rights to the Missouri system and its tributaries is highly charged, competitive, and fast moving. Many tribal leaders perceive the legal system to be extremely threatening to tribal sovereignty.

Some states have adopted laws to quantify Indian water rights. This has forced Tribes to negotiate with states to identify quantities of Indian water. The control and knowledge of the resource base and the presence of tribal water management capabilities can exert a profound influence on the positive or

negative outcome of a negotiated settlement. In any case, as more states move to quantify tribal water using the state court proceedings or negotiations, many Tribes are seeking to develop their technical knowledge and skills in water resource management.

I'm from a tribe that in (inaudible) for now winner's decision was created on Fort (inaudible) but in Montana...Montana is a general stream of communication state, which manages the (inaudible) allow that the whole state would be adjudicated and that criteria falls under the McCarran Amendment which we did talk about in the beginning. Therefore, Montana is probably one of the few states that have a general adjudication act. North Dakota, South Dakota do not participate in that. So therefore, Montana...well, ...subtract the headwaters... Montana is in the process of settling their water rights with each individual tribe. They are down to a few that are left. Montana has seven tribes; five tribes so far have participated...they are down to the Blackfeet Tribe and (inaudible) Tribe. The (inaudible) Tribe flows into the Pacific Ocean where the rest of the tribes flow into the Missouri River. So that's a point in Montana.

South Dakota and North Dakota are under a different circumstance it's my understanding that South Dakota was going to initiate a general adjudication act then it was revoked or put aside until further notice.

But I guess with the Missouri River here I got new (inaudible) perspective of the

Mni Sose is that we do have one of the major problems with the Mni Sose has is because you are 28 tribes. Some of these issues are legal and technical that Mni Sose really can't take a position for a particular tribe. You can come up with a general agreement amongst the tribes but the legal part of the tribe...that's their individual responsibility and they have to provide that themselves. The Mni Sose really can't go against any tribe that pushes through or otherwise on the same consensus of 28 tribes. Then those sovereignty issues is that each individual tribe, tribal governments actually vote on those so work out a lot of relief when it comes to some legal issues that Mni Sose can handle.

Well, I have to conclude here and get on with the show here.

The Tribes strive to exert an active water resource management presence and improve technical capabilities in water resource development. This will reduce or eliminate the need for state and federal control of tribal resources. The Tribes would like the opportunity to develop their homelands, devising resource use and management strategies that would fit within the framework of state, Federal, and tribal laws, eliminating the need for costly litigation.

The original motivating factor that formed the Mni Sose Coalition was the collective and basin-wide concern of the Tribes over the quantification of tribal water rights. Not including any legal or negotiated proceeding, nearly all of the 28 basin Tribes are involved in some aspect of water rights development. The

identification, development, management, and protection of water rights are underway. All Tribes are at different stages with respect to water quantification, water resource development, and control structure. The profound realization that tribal water rights exist even without formal adjudication has prompted many Tribes to seek ways of securing increased control over the resource through tribal resource management activities, including resource policy development.

Tribal lands are located in isolated, rural areas with limited access to current resource technology, expertise, and equipment. The smaller Tribes have not been able to keep pace with technology (i.e., computerized water monitoring systems), and as a result, are unable to fully assess their water resources and tribal options in water management due to lack of financial resources. Even those Tribes with some financial resources have inadequate resources to cover their million-acre plus reservation lands. Access by computer to data and expertise is an effective way to address this need.

The basis for securing the greatest amount of control over water resources, with the greatest flexibility in use over the long term, consists of three components:

- Accurate and comprehensive technical information regarding tribal resources;

- Capable and competent tribal water resource managers; and

- Strong tribal government with effective resource-governing policies.

Conclusion

The Indian Nations of the Missouri River basin possess extensive land and water rights, which will enable them to be self-sufficient and to control their destiny. Yet, tribal land and water have been developed by various agencies of the United States government for the benefit of others. Meanwhile, tribal development efforts are hampered by inadequate environmental infrastructure. This seriously threatens public health on Indian Reservations, as well. Yet, neither the Congress, U.S. Public Health Service, nor the environmental movement has given serious consideration to these threats.

There can be no meaningful development without improved infrastructures. Consequently, the improvement of water, sanitation, and solid waste facilities of Indian Reservations remains a foremost concern of the tribal leadership.

Moreover, the Indian Nations of the Missouri River basin are telling the United States to stop using tribal land and water for hydroelectricity, navigation traffic, and irrigation by the homesteaders unless the Tribes are adequately compensated for the use and degradation of these resources. In addition, the federal government is using tribal resources in a manner that destroys wildlife

habitats and environmental and cultural resources. There can be no sustainable development unless these resources are preserved and enhanced.

Ultimately, the approach of the larger non-Indian society toward the Indian rights and treaties must change dramatically. Instead, Tribes are perceived as an inconvenience as the federal government and non-Indian society take and utilize tribal land and water for their economic benefit. The Tribes will continue to exhibit the patience and perseverance of tribal ancestors in asserting these rights. By continuing to emphasize treaty rights to land and water, the Tribes will undertake sustainable development and create the permanent homelands that are guaranteed in the treaties themselves.

That's the conclusion of the position paper on the Mni Sose. And that's what we all hold here and we can make copies of it and pass it out. Thank you.

Hargrave: Thank you. You know, I guess, (inaudible) few of them I think maybe what we could do is kind of go around and if everybody wants to tell us who they are and who they represent and maybe what they do. (Inaudible)

So I guess I'll start off. My name is Rose Hargrave and I'm with Army Corps of Engineers out of Omaha and I'm a Practice Manager for the Missouri River Master Manual.

- McAllister My name is Roy McAllister and I'm the Technical Coordinator for the study with the EIS/Master Manual. I also work with Rose in Omaha.
- Stas: My name is Nick Stas, I'm with Western Heritage Power Administration out of the Upper Great Plains Region. I headquarter in Billings, Montana; I'm the Regional (inaudible).
- Olson: My name is Mike Olson; I'm with U.S. Fish & Wildlife Services here in Bismarck. I work on fish and wildlife issues on the river from Montana to Missouri.
- Sapa: My name is Al Sapa. I'm Field Supervisor with North Dakota Fish and Wildlife Service. Our office is the lead for the Fish and Wildlife Service and process the Endangered Species Act activities on the Missouri River and we've had sort of a major goal and (inaudible).
- ?: (Totally inaudible.)
- Harski: My name is Jim Harski and I'm with Bureau of Recreation here and it's a good opportunity to have a better understanding of some of these issues.
- Thomas: My name is Patricia Thomas and I'm Administrator of Three Affiliated Tribes.
- Madison: Deb Madison, Environmental Programs Manager for (inaudible).

Otto: Becky Otto, archaeologist (inaudible).

Foustor: Carl Foustor, administrator for the Fort Peck (inaudible) Resource office in (inaudible) Montana.

Rousseau: My name is Dennis Rousseau; I'm director (inaudible).

Johns: I'm Mary Lee Johns; I work in the Army Corps of Engineers and helping them with their tribal consultation process. I'm also an enrolled member of the Cheyenne River Sioux Tribe.

Baker: I'm Gail Baker; (inaudible) I am member of Fort Berthold Tribe what I'm about here is support and if you can actually do anything about these grave robbers who pass the buck again. That's what I'm here about and I will be here tomorrow (inaudible). Thank you.

(Totally inaudible.) Laughter.

Fallis: My name is Fremont Fallis. I guess I was one of the original incorporators of this (inaudible) for water rights (inaudible) incorporated by (inaudible) Tribe, (Ogalala Sioux Tribe and Standing Rock Sioux Tribe. I was a delegate to that (inaudible). Currently I work as a coordinator for the (inaudible) Sioux Tribe and I still, I guess,

represent the Rosebud Sioux Tribe on the east (inaudible) of the Missouri River whether it be the Master Manual or the (inaudible).

Moore: I'm Rick Moore. I'm at the Northwestern Division Office and work with Rose Hargrave on the Master Manual and I as recently as last week have been officially assigned over to a Master Manual, I guess, and to work with the tribes in the coordination of the Master Manual. So if you receive emails from me or get phone calls from me or whatever. I'm the Master Manual person; that's who I am. Thank you.

Hargrave: I thank you everybody. You know kind of in terms of maybe what the Corps was hoping for the meeting today and maybe what our goals are. And we are so good at this—at the Corps. We can pour more information on you than you stand and we can just turn on the hose and let go. But what we really hope to get out of the meeting today and this week, I think, is some really meaningful discussions in terms of how we work with the tribes. How our consultation proceeds; issues that are important to the tribes and while we will provide information maybe to foster those discussions, I guess, rather than having us just stand up here and continually lecture the group, we really would like to maybe get some of the discussions into a set type of format so we have like an exchange here. Rather than us just giving formal type presentations. We do have a number of other Federal agencies who, of course, were invited, some of them couldn't get out of Denver today, so hopefully, we'll see those agencies either tomorrow or else some of them did forward us the

materials that they were going to go ahead and distribute and we'll go ahead and get that out to everybody.

But I guess what we would like to do is really get some discussions going—some meaningful discussions going. And I came on to the study in 1998, but it's my perception, I guess, I think for a lot of years we talked at the tribes about the Master Manual but I don't know that we engaged in meaningful discussions with the tribes and in a meaningful consultation process that benefits the United States and the tribes. I guess I'm hoping that we can have some of those discussions over the next couple of days. In particular, we are in a comment period now on the Master Manual/Revised Draft EIS (RDEIS). That comment period started August 31 and that comment period is going to go ahead and it's going to extend until the end of February.

I think in the materials in your notebook that you have there, you have a schedule for a workshop in Huron that we went ahead and scheduled for the tribes and I think there is going to be one at Fort Peck and one at Lower Brule and one at Newtown. That again the Corps of Engineers scheduling the meeting and, you know, we've set the date, but I guess the point I want to make is, really we want the workshop and hearings to be *what the tribe wants*. The materials that the tribes want, the format the tribes want, the location the tribes want, the date the tribes want and so even though you see dates and locations there, we are very, very flexible and I think one of the things that we if we could get input out of this

meeting would be: what is the best way for us to work with the tribes to make sure that the tribes are participating meaningfully during this comment period. What is the best thing that the Corps of Engineers can do to ensure that folks within the tribes are educated and maybe the technical folks that some of the tribes have are really brought up to speed on this. So I am sincerely hoping that we will come away from the meeting with a better perception of what we should be doing with the tribes during this coming period.

So that being said, I guess what I'd kind of like to do maybe is a little bit go into where we are and how we got here and then maybe open it up for discussion.

I think most everybody in their book, you know, you have this Summary of the Revised Draft EIS (RDEIS). This booklet came out at the end of August and if we just kind of move to the booklet, if you go to page four and five. We talk about the journey. What has happened with the Master Manual process? Bottom line, this process has been going on a long time. The Missouri River Basin experienced a major drought in the late 80s, early 1990s and at that time the basin had really never experienced a major drought since the dams were built and so at that time we followed our manual and we pulled the upper three lakes, Fort Peck, (inaudible). We really...

(End of side 1 of Tape 1)

Voice: Reminded miners with their pollutants up the Missouri River (inaudible) flows into the tributaries and up the Missouri River and (inaudible) wildlife studies (inaudible) pollutants involved in the water (inaudible).

Hargrave: Oh, one thing we are doing and this is just real recent—within the past year and a half. We are working real close with the Environmental Protection Agency (EPA). The EPA has an oversight — Clean Water Act. You know, one of the things that you will see in the EIS that is coming out here within the next couple of weeks is an analysis of water quality. Where the Corps is concerned—the Master Manual will not solve every water quality problem that there is in the Missouri River. But what we try to do is identify some water quality issues, including the mining. The mining issue. What we are looking at is how does our operation and the dams impact the water quality of the Missouri River? So in the EIS that you see in the next couple of weeks there is a (inaudible) water quality appendix that is about that thick. Tremendous amount of information. It's really going to be a good (inaudible) for Missouri River quality information.

So the long answer to your question is, yes, we are looking at water quality (inaudible) working real closely with EPA.

Voice: Curious factor both in our number of shoreline hangs on a thread in Great Falls (inaudible). I don't know why your (inaudible) distributor of (inaudible) the Corps won't take care of the distributor. Why don't they do (inaudible)? This pollution

stuff, miners in (inaudible) an issue a long time ago. That's the way I see it. They wait until the last minute to try to clear it up and it's pretty well damaged.

(Inaudible.)

Voice: (Inaudible.)

Hargrave: One of the things with regard to—there's some pollutants in the reservoirs—I'm thinking particularly about Lake Oahe, that they are buried in the sediment at the bottom of the lake. I guess one of the things we are looking at is—do our actions or how we manage the river or do anything to stir up those sediments. Right now the materials or the toxic things are like inactive; in an inactive state which is buried in the sediment. But if you do—we are working very hard to make sure that our actions don't do things that would stir up those sediments or make those chemicals inactive in the water column. So that is one aspect that we are looking at. But the point is well taken, we know (inaudible).

They've just kind of going on. We put out of the EIS in 1994 and we heard from the tribes as well as the rest of the basin. They didn't like the alternative we collected and they thought we needed to do a lot more studies of the Missouri River—we did those. In 1998 we put out another document and we didn't identify a preferred alternative but what we did is we put alternatives out there for discussion to see if we couldn't work with the tribes, work with the rest of the basin to see if we couldn't get some agreement on what the Water Control Plan for the

Missouri River ought to look like.

At that time we did work very closely with the Mni Sose and the Mni Sose at that time did have like a technical working group and those folks did come to Omaha and while the Mni Sose did come in with a particular tribal recommendation for an alternative they did come in with a request for additional studies for the tribes. So the Mni Sose, I guess maybe this is just my perspective, but the technical group that the Mni Sose put together at that time, I guess we thought was a tremendous value to the tribes. But since that time I don't—I'm not quite sure what has happened with that technical group but it seems like that maybe, and we can get more thoughts on that, but that might have been more good forum for the tribes. Anyway...

Voice: You want the (inaudible) be considered a non-point source then?

Hargrave: A non-point source?

Voice: Over the years, tribal (inaudible) conference, in the end you have to match them to a non-point source. (Inaudible) Corps said at the time (inaudible) consider (inaudible) .

Hargrave: I think you are getting to the water rights issues. First of all, we do not consider the tribes not a point source. I mean, the tribes are (inaudible) nation.

Voice: (Inaudible.)

Hargrave: I can't speak for...

Voice: I'm not trying to start an argument here but when I heard that on the tribal council (inaudible) Corps of Engineers (inaudible) basically that's what (inaudible) we were always considered a non-point source.

Voice: So hopefully there will be a new manual where the tribes will have a little say into it this time.

Hargrave: You know, sometimes when I look at it our relations with the tribes has changed tremendously when this process started in 1989. Even at the national level, now we have policy guidance. We are getting some direction on what our relationship with the tribes is supposed to be. So I still look at it like we are in some kind of an evolution process. I think we get better and better but I think the whole relationship with the tribe, you know, it continues to evolve and I think it's going to continue to evolve even when we are well past revising the Master Manual. So I guess it kind of looks like we are making progress. It's slow but I think we are making progress with our relationship with the tribes.

Voice: It's really sad, you know, because when people first came up here they survived

because tribes are a nice group of village. (Inaudible) Now they make these deals about water rights and stuff and still we are left behind. We need to survive on part of our ancestors here. (Inaudible) I know about two or three thousand years and still we are left behind. It's really sad, really.

Voice: Then they say they are rooting for civil rights today.

Voice: I don't know about that.

Voice: Do you have a copy of the Corps of Engineers (inaudible)?

Hargrave: The National Environmental Policy Act—NEPA?

Voice: NEPA.

Hargrave: Right, in terms of environmental justice, in terms of, you know, we are following NEPA for this Master Manual.

Voice If you are following NEPA under your Corps of Engineers, you have your set of regulations.

Hargrave: Regulations, right! Yes, we have, the Corps has regulations on how we are supposed to implement NEPA and we are trying to follow those regulations.

Voice: I asked for a copy (inaudible) a year ago and he said he was going to send it to me and I'm still waiting for the copy the NEPA (inaudible).

Hargrave: Okay. We might even be able to give those faxed up here. We absolutely will get them.

So just kind of continuing on where we are at. So we put out this document in 1998 and we couldn't get any agreement on what the plan ought (inaudible). Actually in terms of the State there was actually a fairly high level of agreement. The Mni Sose is a voting member on the Missouri River Basin Association. When they took the vote relative to what a consensus plan ought to be, the Mni Sose elected to abstain from the vote and I think primarily that was because the tribes have some very special issues with the Corps relative to the management of the Missouri River that aren't issues at State. So the Mni Sose at that time abstained from voting on any kind of a flow plan.

So following that 1998 document we then got into formal consultation with the Fish and Wildlife Service under the Endangered Species Act because besides all these other issues on the Missouri River there are several endangered species. The Corps needs to address those and the Corps is required to comply with the Endangered Species Act. So during 1999 and 2000 we were in consultation with the Service.

The Service came back to us and they told us then their biological opinion. Mike will get into I'm sure. That the way that we currently operate the Missouri River jeopardizes the three endangered species on the Missouri River. So since that time we have been working to develop plans that comply with the Endangered Species Act as well as serve the other needs of the basin.

So this is kind of where we are at right now. The red arrow here, we just put out a document and this Revised Draft EIS (RDEIS) and the summaries they should have here that was just put out the end of August. Actually the hardcopy for the Environment Impact Statement (EIS) itself won't be available until next week, but you can get hardcopy of that document and each of the tribes, by the way, are being sent the full Environmental Impact Statement and you can also get it on a compact disk if you folks want to look at it that way. But, Todd, those should be coming out next week sometime so you might (inaudible).

But anyway what we are in now is we put out that Revised Draft EIS (RDEIS).

Voice: The Environmental Impact Statement and sending these to the tribal chairman?

Hargrave: Yes, each of the tribal chairmen is getting the Environmental Impact Statement.

Voice: You know it would be better if you sent also a copy to the Tribal Environmental

Offices sometimes tribal chairmen to the environment departments could be a long time before we get that.

Voice: That's a good point because a lot of times (inaudible).

Hargrave: Sure, absolutely. That would be Tribal Environmental Office?

Voice: Right.

Hargrave: Okay.

Voice: Ground water resources (inaudible).

Hargrave: Do we have that information, do we know?

Voice: Yeah.

Hargrave: Okay.

Voice: I suggest that anyone attending or participating also get a copy.

Hargrave: Oh, sure.

Voice: For them to make sure that they are giving you their correct address...

Voice: As you said earlier that your Corps are working diligently with the U.S. EPA so within the Missouri River basin you have Region 7 and Region 8. (Inaudible) flows into Region 8 so they are in touch with every Tribal Environmental Protection...

Hargrave: Okay, absolutely. We've been working real close with (inaudible) particularly from Region 8 but absolutely.

Voice: Region 7 has 9 tribes.

Hargrave: Right. We will go ahead and do that.

Voice: In the natural resources, each tribe has a Natural Resources Office also in addition to an Environmental Office. Some are together and some are separate.

Hargrave: The document when it gets out there and I guess this is one of the things that maybe I kind of wanted to...hoped we would discuss. We are going to put this fat old document out there to you. What's the best way for us to interact with the tribes in terms of explaining that document; in terms of helping the tribes to maybe better understand the information within that document? Because my sensing is that we should be working maybe with the environmental offices or the water

resource offices relative to that issue. Because this is an important issue to the tribes and, I guess, we want to do whatever we need to be doing to help them get through that document and to understand that document so that the tribes can give us meaningful, good comment.

Voice: (Inaudible.) Resources department (inaudible) combination there (inaudible) talk to (inaudible) and we are also talking (inaudible) habitat and so forth.

Hargrave: So maybe what our best course would be then to go through EPA to work... (long pause on Tape #1)

Voice: Just like to say very different views (inaudible) and so I would give them the same (inaudible). Should go back to the chairman (inaudible).

Hargrave: What is?

Voice: What is your official (inaudible).

Hargrave: Sure. Right and that's the way at least, now the consultation process, you know, we did get some draft policy guidance and we tried to identify a process to follow the draft guidance we have, but you know that process is kind of in an evolutionary stage, too. Absolutely I hope we get into this. We need input from the tribes on whether we are even on target with the process we have identified. Or are we way

off base with this—even where we think we are headed on the consultation.

Voice: Well, I'd like to add something in here while the iron is hot, so to speak. I think
(Carl) you are at the crux of all your problems right now. One of the things we are gathered here, different tribes, different Federal agencies, State agencies, so on and so forth, but no two tribes are alike. This...been a number of years now (centuries, I guess) but the government always tried to put us in the same shoe—they don't fit. What is being said here, there's a lot of merit and I think probably the easiest way would be for the Corps of Engineers, you're mandated to develop a Master Manual to address all the needs and responsibilities that you have to accomplish but you save a lot of time by going and consulting with each tribe. But take a little checklist along and I know it's difficult but we are the tribal governments and we as tribal members have difficulty working with our tribal leaders and other tribal departments. The left hand never knows what the right hand is doing sometimes. That's human nature. So you'd probably be better off just to go and visit with each tribal reservation and some reservations have two tribes but, generally speaking, with the exception of two they all have one tribal government.

Hargrave: You know, I think those comments are just tremendously on target...

Voice: Let me just finish on that, I'll probably not be here when you get into your government-to-government relationships. Those are mighty words—they sound good. Rolls off the mouth—we are a sovereign nation but there's a lot more

beyond that. Those are words we can use anywhere anytime. Get down to the meat of the thing though, if you develop a checklist and these are the things that really need to know from your reservation. How you work is handed down the line. Difference between the tribes you can kind of work together through this or however it might come about meeting with the Mni Sose. Mni Sose may be helpful in that matter; try to coordinate viewpoints of the tribes but yet you need to know the Corps of Engineers developed a Master Manual; what does on that segment of river where the Fort Peck or the Assiniboine, the Sioux or the Fort Peck Reservation. Assiniboine (inaudible) or Belknap or so on down the line.

Hargrave: Absolutely, a couple of things on what you just said, first... (Pause) And may have staff who can take this document and digest it. You know there are other tribes who don't have that same level of expertise. So tremendous differences between the tribes there. You know somehow...

(End of tape #1).

Tape # 2

September 12, 2001 A.M. Chairman Greg Borland & NEPA

Voice: Because you are dealing with a lot of environmental issues but yet I also have some agricultural concerns and so on and so forth but if we have one person that

is going to be speaking to the Board and that person could come and talk to the farmers, to the cultural groups and so on to make sure all the issues are addressed. The new Board could set something up but then there would also be the legitimate tribal response because if I'm setting out there in Oswego and I come up to you as an individual as a member of the Assiniboine Tribe at the Fort Peck Reservation these are my feelings and you respond to that. Well, then that kind of puts our tribal leaders in another position. See what I'm getting at?

Hargrave: Right. Right.

Voice: Because we do have a government; we do elect our officials; they are responsible. I hear some good ideas though. I think it's kind of a turn in the road a little bit and I think there's a way to address it but not in the traditional manner that we've been doing for the last 200 years. Let's turn this up a little bit and I think we can get things solved...

Johns: I think that one of the reasons we are having this meeting is because the idea behind it is that we provide the information—as much information at this meeting as possible. We begin the dialog and then from that point then tribal consultation can then proceed from this because there's so much information. Like Rose said, she can turn on the faucet and give you so much it could overwhelm anybody—the amount of paperwork and the amount information that can come out of any government agency. But the model is to try to give as much

information to the tribes and invited the people that were asked to at least attend the meeting were the environmental individuals who work in tribes and also land resources and anyone else that works on, you know, that has any input on the Missouri River. Then from that point then we can have the dialog with the tribes individually, but the idea was to begin this whole process and then have the tribes give us ideas on how to proceed from this. So I think that your suggestions are very valid but to understand where this meeting came from, it came from tribal leaders themselves suggesting that we have this meeting. Similar to the Indian Health Services—annual conferences or their regional conferences where they give some vital information that the tribes need to have to interact with the say, IHS throughout the year. That’s where the idea came from.

Voice: This has turned out a lot better and the people have better (inaudible) IHS.

Johns: I’m just using IHS as an example. I’m just using it as an example. I’m not saying that we are going to follow down the path that IHS leads; it’s just an example of why we are having this meeting. The fact that the Corps is at the point where they are evolving a tribal government-to-government relations or whatever term you want to use. I believe that the tribes have an opportunity to help create it and I don’t think that we’ve had that opportunity before. I’m an enrolled of the Cheyenne River Sioux Tribe. I lived on the river and I was one of the individuals that were flooded out and we were forced to move to Eagle

Butte, South Dakota. So I went through the whole process and I'm also very much involved in helping to develop tribal consultation. I did it at the national level and I'm trying to help create this at the regional level now because I think it's vital to us as tribal members to help create or have the opportunity to create them. I'm sure that...like Rose's coming here and she is saying help us create this. So every suggestion is valid.

Hargrave: I think, absolutely. One of the issues we've had...I honestly think we are not connecting with the tribes here relative to the Master Manual. Just bear me very blunt, we have great paper trail on this and a wonderful record that's going to say that on da, da, da, we sent a letter to the tribal chairman and we go no response. Just making a wonderful record but we are not having meaningful government-to-government consultation. It's like we are just passing. That's what we want to have with the tribes. Just to be real blunt—we keep sending these letters out to the tribes saying to the tribal chairman saying do you want to be in government-to-government consultation, please if your tribe would like government-to-government consultation, please let us know. Then we send out another letter and then we send out another letter but there's actually very few of the tribes (Fort Peck is one of the tribes, by the way) but very few of the tribes who've actually said yes, we want to be in government-to-government consultation with the Corps on this. This is very important to us; particularly the 13 tribes that are directly on the Missouri River. I can't imagine that those tribes don't want to be in government-to-government consultation with us but we don't

hear necessarily from them.

Yellow Bird: Good morning, Rose.

Hargrave: Hi.

Yellow Bird: Hi, good morning everybody, I want to apologize for being late but the agenda that I received from the Army Corps says the meeting starts tomorrow. Want to talk about communication. Everybody's here and been waiting.

Voice: I heard you.

Yellow Bird: After all that the first thing I need to say is that sending letters to tribal chairs is (inaudible) after all these years we would hope that people would learn that is not the best way. You send a letter; you follow-up with a phone call; you follow-up with a face-to-face meeting. Our chairs and their staff are working on government issues all at one time and it's incumbent. I just heard you say you wanted to connect with the tribes—that's the best way to do it. You send a letter; you set up the meeting; you follow-up with a meeting face-to-face; government-to-government consultation. That's the best way to do it. It's unfair to try and expect things to start rolling just under the basis of letter of communication. You have to follow it up; you have to make that commitment to do that. And as far as I heard you say about there's paper trail on the record,

who's taking notes for today's meeting? Is there a record being created of this meeting and a statement being made by the Army Corps?

Hargrave: Yes.

Yellow Bird: Who is doing that?

Hargrave: Rick's doing that.

Yellow Bird: Well, he's not doing it now. We need a record, Rose, of verbatim transcription of this meeting so that we tribes will have something to refer to when we feel that the Corps is not doing their job. We can say we met with you; you said this on this date. We made a written record and there was a sign-up sheet out there for people (for tribal members) who want to be copied on everything dealing with the Master Manual. We need to, if we could please say if they haven't already sent a sign-up sheet around for the people who are here and a commitment from the Army Corps that you are going to send us a copy of the verbatim written records which we've already gotten a big gap in now because our recorder isn't here. You understand that unless there's a machine recording this...

Hargrave: Right. We do have. First of all...

Yellow Bird: Not going to have a verbatim...

Hargrave: First of all a couple of things, I would hope the meeting today was going to be more discussion.

Yellow Bird: That's what I'm trying to do.

Hargrave: I mean like we don't consider this a consultation meeting; we don't...our hope here was to have an informal type discussion. Let's talk about how we are going to improve communication. I don't think our intent here other than taking down meaningful comment and recording meaningful comment was to like a legal transcript or...

Yellow Bird: I hear what you are saying but your hope and your intent is one thing. But we are the representatives of sovereign nations who have come here in good faith, earnest good faith to work with the Army Corps on the Master Manual plan. Okay?

As Mary Lee, my friend, I haven't seen you in ages, how are you doing, was saying we are here to work in good faith and we are representing our tribes and we require a written record. On behalf of the Three Affiliated Tribes, I was instructed by my chairman, Mr. Tex Hall, to make that official request and would have done that at the get go this morning if I had known of the meeting

prior to this morning.

Johns: Pemina?

Yellow Bird: Yes.

Johns: First of all, we are going to apologize to you for getting the draft. You probably got the first draft of agenda, which was after that changed the date that shows on the agenda now. Tex's (inaudible) in Rapid City who actually sat down with us and created the idea for the (inaudible) and it wasn't to be a tribal consultation. It wasn't going to be a hearing.

Johns: What it was going to be was an orientation so that we could go through all of the documents that would be in the draft copy of the EIS and then from that point the tribal consultation would proceed from *after* this conference. So all this is is we are to hold meaningful dialog; interact with the tribes so that we can hear what the tribes have to say so that when we do have the *official* tribal consultation then it will be done in a way that the tribe will be comfortable with. So that's why we are holding this meeting now.

Yellow Bird: I'm clear on all of that, Mary Lee, I'm clear on it; I knew that my chairman had requested this be an orientation meeting and I know it's not a consultation. I'm not here to participate in a consultation; nonetheless on behalf of my tribe I am

asking for an official record of this meeting and I would like an answer. Are we going to have an official record?

McAllister: We are trying to record it so we don't miss any of the information that people are giving us.

Yellow Bird: Are we going to have a written record sent to all (inaudible)?

McAllister: From the recording, we are going to type it up and send it back out to the tribes.

Yellow Bird: To the tribes, very good. That's *all* I wanted to know.

Hargrave: We don't consider this is like taping official comments or anything is what I was trying to get across.

Well, maybe just kind of going back to where we were at here and we were going through pages 4 and 5 here. So this document throughout history...we have this comment period that goes until the end of February and again right now the workshops and the hearings are the way that the Corps of Engineers envisions them and I don't think that's the way it ought to be. I think in terms of the format, the location, the tribes hosting the workshops, I think a lot of those decisions I guess we'd like to speak to the tribes kind of tell us what they want. Or maybe some of the tribes would actually host the workshop. The same way

any materials we develop; we are developing and from the Corps of Engineers perspective and it may not be what the tribes want; they might want to see it from the tribal perspective. So I guess what I was hoping our discussion here too is that we talk about the best way to get the workshops, the hearings, and the official tribal counter. It's the way that the tribes want it as opposed to the way we would lay it out.

So the comment period can go on until February. Then schedule-wise we plan to get a final EIS out in May 2002. This is going to be a tremendous challenge. And that final Environmental Impact Statement is going to have as to what the plan is. Then that will be followed by a Record of Decision (ROD) in October 2002. Then we will do our Annual Operating Plan (AOP) and the new plan (new Water Management Plan will be implemented in March 2003. That date is not some artificial date that the Corps dreamed up; our current operations are according to the Endangered Species Opinion that we got from the Fish and Wildlife Service are only good until 2003. Then we are in violation of the Endangered Species Act so that's what is kind of driving that date.

Borland: I have a question, if I may. I heard it said you are (inaudible) does that extend through (inaudible) agenda. Three days?

Hargrave: Right, we don't consider this to be...

Borland: Well, on your agenda on September 14 states that “Consultation with Tribes on the Annual Operating Plan?”

Hargrave: Okay, that is different from the Master Manual. That is different. Every year, you know, we have the Master Manual that kind of lays out the guidelines for how we operate the dam but then every year the Corps does an Annual Operating Plan that says... that kind of tells how we are going to manage the dam that year to reflect the water conditions of that year. So that’s what that’s about.

Borland: I guess I’d like to introduce myself. My name is Greg Borland; I’m Chairman of the Cheyenne River Sioux Tribe and I’d like to take you on a...just a little journey through time (inaudible) actually a little over ten years ago.

A little over ten years ago there was a hearing convened before the Congress of the subcommittee of waters and then the Congressman Tim Johnson invited me on behalf of all the tribes in the region to testify on the Corps mismanagement of the river system and specifically to comment on the Master Manual—the lack of consultation with tribes and tribes, of course, these consist of roughly 15 tribes that have a lot of shoreline along the river. At that particular hearing in Washington, DC, where the Corps testified and were questioned repeatedly by Congress before admitting fully, even the guys that were testifying, at that particular time it was the Assistant Secretary (inaudible) Corps that the Master Manual was not only outdated but in many regards was unused. And they also

admitted that they had little if any contact at all with the tribes that it traditionally since the dams had been created the Corps of Engineers had not really consulted or even visited with the tribes.

In our reservation Cheyenne River has one of the largest shorelines on Lake Oahe. We also gave up the most land of anybody building (inaudible). When I became chairman—now you've got to keep in mind this was March 1991—I became chairman in October 1990, to our knowledge nobody can ever remember ever having a single meeting with the Corps. Nobody! The elders—nobody. Nobody had ever seen a Corps person. Nobody even knew what they looked like. In addition, it was the first time that many of our people ever even heard of the Master Manual that this was this big book that apparently had every acre of land in it and some of it's been designated as recreation area, etc. Also the Corps of Engineers absolutely infringed upon our sovereignty by establishing one single record and then turning around and leased that out to the State of South Dakota. That was at (inaudible) City. Never ever consulted with us by...never said do you guys want to lease out or run this recreation area; absolutely looked right passed us...slap in our face with an insult. (Inaudible) insulted the Corps right back at the hearing, I made the Congress aware. The Corps of Engineers admitted at that particular time that the Master Manual needed tremendous revision but they kept a consistent argument that their job was to basically there to let water in and out of those dams; creating a little hydroelectric power but that was a little afterthought. But essentially to maintain the dam.

The Corps had absolutely *no* interest in (inaudible, noise) records in the environmental protection of the environment, the protection of cultural preservation, sights. That has never been on the Corps plate. The only reason is the Corps had even began to look at this is because of Congressional pressure and influence and tribal pressure and influence. The Corps itself has told us repeatedly that the Native American graves protection act does not apply to them; that they were somehow free from it but that they would cooperate (inaudible) what we have experienced. For the last (inaudible) years it's been an on again/off again relationship. We have tried to work closely with the Corps, especially in our mitigation law to ensure that things would happen. Even in mitigation we watched the EIS process seemingly flounder because some of the concerns that we have with the (inaudible) EIS especially in terms of all the irrigation, all of the pollutants that have been dumped on the land that are being irrigated especially on non-Indian land that we believe there may be some potential problems with water sheds and a lot of the EIS (inaudible) reflected.

Not to mention the fact that our river had been dammed up for a lot of years and now folks are worrying about the sturgeon. They are worrying about paddlefish and different things. Well let me tell you this, those species they should have worried about them from day one. It's only because of folks like the Sierra Club; it's only because of tribal and Congressional mandate that anyone has even taken this to heart.

I see the Corps effort as being one of being forced into doing things. It's like a shotgun wedding. Right after, it was kind of ironic because nobody had ever seen a Corps official at Cheyenne River. Within a month after the hearing in Washington, DC, Cheyenne River was selected for a Corps visit and all of a sudden we have all these guys with big fancy Army suits that come marching in there one day and the first thing they said is, "What can we do for you? What can we do for you? We want to give you money; we want a contract with you." Of course, we said well, yeah, it's a good idea but you folks should have been out here years ago.

It was also the first time we had ever seen the Master Manual and it was the first time they brought these big giant books, I remember they had blue covers. It was a little more that we could absorb in a single day. But what was ironic, even further, is even though they came to Cheyenne River because I testified against the Corps they didn't go to Standing Rock, they didn't go any place else; they came there to try to appease us and try to pay us off. And we kept up the fight, kept up the argument, I notified all the other tribes and eventually we were assigned, Dave Baker, who is an Indian liaison. But Dave was only able to deliver our messages back or deliver messages from the Corps. Again, we feel in Indian country like this has been a shotgun wedding. One side really doesn't want to be partner to this wedding. The other side has to be partner. Why, because this was our land. This *is* our land. This is our water. Our people drink

this water; people bath in this water; people swim in this water. Our people here need our their crops with this water. This is our land long before you guys ever came here—long before you ever decided to build these miserable series of dams.

I'm going to tell you something. I was born and raised on a ranch. I don't know who the fools were back in the 1940s and '50s that planned these dams but our land, you got a big old draw, put all the little dams up high on the draw—the big dams downstream. Take a look at this map. You've got Fort Peck carrying 18.7 million acre-feet, Garrison 23.8, Oahe 23.1. If I was one of these terrorists and I decided to do some real damage—see what I'm saying. Take out Fort Peck you're just took out the entire river system. Why not build the little ones upstream; every rancher in the country knows that's how you build dams. If you are going to put three dams on the draw, you put the little ones up high, the big one down low. If the little one blows up it doesn't wipe them all out. Is that not correct, Dennis? Is that how we build dams?

Dennis: Yeah.

Borland: And so you took our best land and I'll tell you why you did it and the record is very clear. You did it because that was the least amount of damage the way that the United States government seen it to population center. You can create all these million acres feet dams—big giant dams and have the least amount impact.

With just the impact. Turns out 4,420 acres of my people's land; the best land—the river bottom. It's where all of our cattle would graze in the winter and have protection. I could stand here and tell you horror stories what has happened since then. Okay?

Yet, you put these dams above places like Pierre, South Dakota, above places like Bismarck. Since you couldn't replace these good folks out here in Bismarck, so you wouldn't force *them* to move up on the pole when you're ready. And they've been drawing this river belt. But my people were insignificant and then after these dams were built and flooded, then to add insult to injury, we never received any of that hydroelectric power that we were promised and we were totally forgotten. And we watched our burial sites wash away; miles of shoreline washed away. We watched scavengers (inaudible) come to our land and literally steal our (inaudible) on both sides of the river and the Corps did absolutely nothing. Nothing to stop it! Absolutely nothing.

And it wasn't until Tim Johnson, the number of Congressmen said there is something really wrong here and, of course, they were in a fight with the downstream navigation space versus the upstream recreation space. That the tribes were even invited to the table—that we were invited to the shotgun wedding.

So you understand, these good people here, these tribal leaders...we are a little

bit confused at times because we've come to the table, we've offered ourselves but we've offered our comments. We have a rich history behind us but we also have a terrible history because we have watched our land become inundated; we've watched and we've lost a lot. And we feel that you as the Corps of Engineers have got to join us either as a willing participant and a partner in this marriage, because this marriage I guarantee is not going to go away. You can replace Colonels every two years in the Omaha district. You can send them down their merry way; just when we start getting to know the group—he runs away. (Laughter.)

But I just want to let you know I'm speaking on behalf of those countless people, and especially many of my tribal members that have suffered great tragedy as a result of what has happened. I know we are stuck with it; I know we have to use it. It's like playing catch-up. We are talking about habitat. It has absolutely been devastated. We're talking about cultural preservation; this is not just that it's gone—it's washed away. It's at the bottom of the lake. So we are doing a lot of catch-up here. What is important is for us to catch this runaway freight train; we all have to run together. Can't have you guys lagging behind. We can't be in (inaudible) there's a meeting one day and there's not. Or we can't come to a meeting and be told that it's for consultation and it's not. I need a tape recorder; giving this really good speech and it's not being recorded. I know I can't remember a word of it. (Laughter.)

Let's have an impasse on behalf of the Cheyenne River Wapako Nation. I would hope that you will carry this message back to your leader in the Corps of Engineers and that you would make our message heard that we want a willing participant. We have yet to see that. The day the Congress backs off, our fear is you will back off. Thank you.

Yellow Bird: I want to thank the Chairman for his words. It's wonderful to come to meetings and there are powerful people who tell it like it is and I'm glad, Mr. Chairman, if you are leaving here, I believe they are recording it and I am in the process of writing a letter on behalf of Three Affiliated Tribes. My colleague and I are going to request copies that we can have them for our own use. The only thing I'd like to add to that is...

(End of Side 1, Tape 1)

Yellow Bird: ...tribes and there is; there are a lot of tribes; a lot of anger and a lot of emotion. One of the reasons for that (inaudible) as the Chairman said, you call a meeting and we come to it. We are sitting in earnest, good faith wanting to work with you; wanting to exercise our right. We are expecting the Army Corps to deal with us in good faith and to fulfill their trust responsibility to our sovereign nations. Then you asked us what we want; then we tell you; then it doesn't happen though. That's the pattern. That's why many of us come to meetings; people beat you up. That's why people are angry. And so I am going to ask you

all—open your ears! Open your hearts! Open your mind! With the good words Mr. Chairman asked you, any one of those words could apply to any one of our reservations and when we tell you what we want you have to listen and then you have to go to work to give it to us. If we say we want hearings on each of our reservations; that's what we want! Okay? We don't come here to be asked what do you want; to tell you what we want only to hear you guys say, "We can't do that." Okay?

Your life will be so much happier if you hear us when we speak. That's all I have to add to that.

Hargrave: And you know I think that's what we are here for. To hear *what the tribes want*. Particularly relative to the Master Manual and I appreciate the Chairman's comments and I'll give you another perspective on it. At the Corps of Engineers, and I can tell you the Northwestern Division of the Corps does not view this as the shotgun marriage. I can't speak for Washington but at least that's where we are at in history right now. I'm sure, I'm sure you are right on target with your comments there. Absolutely, we are one of the biggest bureaucracies—the Department of the Army is one of the biggest bureaucracies there is and the wheels are slow to move, but the wheels are moving and at least from the Northwest Division of the Corps of Engineers we *don't* view this as a shotgun marriage. We *are* committed to this.

Now on the other hand and this is a tremendous challenge we have here; we know construction of these dams had tremendous impact to the tribes; the Chairman on target but I think there was a total of 350,000 acres from the tribes and absolutely there was nothing called environmental justice when these dams were built. They were (inaudible) in their locations for exactly the reason he indicated. Well, at least that was one of the reasons. Those laws didn't exist at that time. The Nation certainly probably had a different perspective on the tribes at that time.

So here we are now. The dams were built; the consequences to the tribes have occurred. Most tribes...the compensation just probably was never there, but we are at a point now where we have to figure out what we are going to do now. This is just Rose, that if the tribes lose this opportunity on the Master Manual... This the Master Manual, and it's not the Master Plan for the Missouri River, it really is how we operate the dam but if the tribes lose this opportunity because it seems to me this is a tremendous opportunity for the tribes to get the big issue back on the table and I guess if we lose it, I think it's a tremendous loss to the Nation and an even greater loss to the tribes. I don't know what we can do to correct the sins of the past but I do know the Corps is committed to moving in the right direction here.

That being said, maybe would this be a good time to take a ten-minute break?

National Environmental Policy Act (NEPA) A.M.

Mackey: Clement Mackey, Santee Sioux Tribe, Santee, Nebraska.

Voice: Go ahead.

Provost: Tony Provost of the Omaha Tribe of Nebraska now.

Rousseau: Dennis Rousseau, Cheyenne River Sioux Tribe (inaudible).

Johns: I'm Mary Lee Johns; I work in the Army Corps of Engineers as a consultant to help them to do their tribal consultations. I'm also an enrolled member of the Cheyenne River Sioux Tribe.

Voice: (inaudible) Cheyenne River Sioux Tribe. I'm the administrative officer and I attended one of the Corps meetings in Rapid City (inaudible).

Elk Nation: I'm Carol Elk Nation, Cheyenne River Sioux Tribe. I'm (inaudible).

Manfager: Diane Manfager, Bureau of Indian tourist pilot, biologist, NEPA coordinator.

Borland: Greg Borland, Chairman of the Cheyenne River Sioux Tribe.

Patris: Mike Patris, (inaudible) Santee (inaudible).

(Inaudible) (Inaudible)

(Inaudible) (Inaudible)

Tieoto: Mick Tieoto, coordinator and archeologist.

Forest: Carl Forest at Fort Peck, Assiniboine and Sioux Tribes. Water resources.

Stas: Nick Stas, I'm with Western Area Power Administration (WAPA). I'm the Great Plains Region—I'm the regional (inaudible).

Olson: I'm Mike Olson; U.S. Fish and Wildlife Service here in Bismarck. I'm (inaudible) river coordinator.

Sapa: I'm Al Sapa, U.S. Fish and Wildlife Service in Bismarck. I'm field supervisor (inaudible).

Branson: Steve Branson, (inaudible) Fish and Wildlife Service here in Bismarck.

Alburn: (Inaudible) Alburn, Three Affiliated Tribes, I work on (inaudible); I'm a representative of my tribe. I'm not as related to it as Mary Ellen (inaudible) of our ancestry and also the preservation and protection of our historic and cultural sites.

McAllister: I'm Roy McAllister and I'm the technical coordinator for the Master Manual and I work on the EIS and so forth.

Nelson: Dave Nelson, I'm environmental representative for the Cheyenne River Sioux Tribe.

Hargrave: Thank you, everybody. I think I will talk very briefly here a little bit to cover EPA's territory since they can't be here today. But then I think we will, after some discussion there, turn it over to the Fish and Wildlife Service to talk about endangered species.

The Master Manual process is following NEPA, the National Environment Policy Act and just in the way of background, the National Environmental Policy Act (NEPA) is like the granddaddy environmental statute of them all. It was passed in the early '70s as many of the environmental statutes were and what NEPA does is set out a requirement where activity can affect the quality of the human environment. Federal agencies are required to do an Environmental Impact Statement (EIS) or an environmental analysis. Where there is potentially a significant impact to the quality of the human environment, NEPA says that you'll do an Environment Impact Statement (EIS) and that's what we have here on the Master Manual. We've been following the legal process.

This morning Fremont asked for copies of the Corps implementing rights for the National Environmental Policy Act (NEPA). I gave him his but we do have a few more copies of that and we can always get more if any folks here would like to have. These are the Corps regulations; it tells the Corps how we are supposed to implement the National Environmental Policy Act (NEPA). So if anybody wants it we do have some of those. Basically that's the process that we've been following. NEPA, one of the primary objectives of NEPA is full disclosure of impact. That's what we've been trying to achieve through the process here. So it's more of a, I guess, it's a procedural law that requires that you fully disclose what the environmental impacts are and that's what we are doing in the process.

The past year, particularly relative to how we address tribal issues in the Master Manual/EIS. We got a lot of feedback from the tribes when we put out the 1994 document and when we put out the 1998 document that we were not addressing tribal resources or fulfilling our trust responsibilities to address impact to those resources in the EIS process. So since 1998 we have been working very closely with Region 7 and Region 8 of the EPA and their tribal coordinators to make sure that we do a better job in the EIS of addressing tribal concerns, potential impact to the tribes and I think the document that you see now or the document that is going to be published here and will be out in a few weeks does a far better job of addressing tribal issues than any of the past Master Manual documents.

Just in the way of how EPA fits in here. EPA is the Federal agency who has actual

responsibility for the oversight of the National Environmental Policy Act (NEPA). So they kind of have oversight over how the Corps implements that law. The EPA also has a responsibility in Summary Section 309 actually the Clean Air Act. Where EPA is going to rate this EIS and they will base their rating on two things. They will base it on first of all: are the alternatives prevented in the document environmentally acceptable and then they will also this EIS on the quality of the document itself.

In 1994 and 1998 we heard very strongly from EPA that they didn't like the way and didn't think we adequately addressed the tribes in the Master Manual/EIS. So again since 1998 we've been working real closely with that.

In your folder that everybody has there you are going to see a few things. First of all, in terms of addressing tribal impact the EIS does address tribal impact by tribe for the 13 tribes that are located on the Missouri River along the mainstem system. We are going ahead and for the 13 resource areas that are in the EIS that we are addressing we are identifying the impact by tribe. In addition to that, we are in the main body of the EIS and then in addition to that we are including a Tribal Appendix to the EIS that will summarize what those impacts are. Also in the Tribal Appendix...we are trying to make the Tribal Appendix like a standalone document for easy reference for the tribes. So if you go to that appendix you'll have a pretty good summary of the tribal impacts and how we are addressing them.

Voice: You want to show it? Which part of the document?

Hargrave: Sure.

Voice: Your white pad.

Hargrave: Right, it looks like this. And you don't have the full Tribal Appendix here, by the way, in your handout. This is like the first 30 pages, I think, of the tribal appendix but if you look at it you'll see the table of contents of the Tribal Appendix. Should be under your white tab. This is the Tribal Appendix, about the first 30 pages of it.

Voice: In your Tribal Appendix what does the category Historic Properties signify? Because I see on every one of them, it says NA that that's not applicable or not available.

McAllister: The reason why it is not it's NA is that if we were to say that the sites that are adjacent to the Standing Rock Reservation, for example, or the concerns of the Standing Rock Tribe, that may not be completely correct because they may be Arikara sites; they may be Hidatsa sites; they may be some other tribal site and the real tribe past concern with that specific site may not be the tribe of the site it's adjacent to. So instead of trying to identify potential impacts to sites by reservation, we just elected not to try to separate it out. Because we don't know

which sites in the model that we run which ones are Arikara sites which ones are Hidatsa sites which ones are Standing Rock's ancestral sites and so forth.

Yellow Bird: There's some problem of that though, Roy. If those sites are located within the exterior boundaries of Standing Rock (inaudible) rights they have a right to say something about them. Those are on core land within the exterior boundaries of their reservation; you have to consult with them loudly. Regardless of whether or not those tribes are associated with their tribe.

So are you telling me (inaudible) but did you mean to say the exact same thing?

Hargrave: I think you're...

Yellow Bird: (Inaudible) there has been problems then. They've flat refused to consult with (inaudible). On sites that were none of those associated with a tribe but they're within their exterior boundaries. And this is...I'm glad you brought that up, because yes, the Army Corps must consult with them. That's their reservation land as well as...

Hargrave: Right, I don't know how much we are going to get into it now but another statute that...

Yellow Bird: You haven't answered my question. Is that what you meant to say, sir.

Bird:

McAllister: I didn't say anything about consultation. I said as far as being able to set the analyzed sites. We did not go site-by-site; what we did with the model set up to identify like, for example, Lake Oahe all sites are lumped together that are at elevation 1643, let's say. So I do not know whether that site is an Arikara site or Hidatsa site; if it's on Standing Rock Reservation or somewhere else. We do not have a breakdown within the model to help us delineate which tribe it may be adjacent to.

Yellow (Inaudible.)

Bird:

McAllister: Right.

Yellow Okay, so how are you going to accurately convey the information to the individual

Bird: tribes that they have sites that are going to be negatively impacted or, what's the other term, beneficial impact?

McAllister: One thing we could have done, we could have done very easily because the project on Oahe site we can say that is on Lake Oahe...that what happens on Lake Oahe as a whole is the way that that specific tribe or reservation may have concerns for that (inaudible).

Yellow (Multiple voices) (Inaudible) lake-by-lake instead of reservation-by-reservation?

Bird:

McAllister: We have some that are lake-by-lake, yes.

Yellow Thank you.

Bird:

McAllister: Lake-by-lake. I think we can do it that way.

Yellow Are they in here?

Bird:

McAllister: We haven't finished that chapter yet. But other than that, yeah. (Inaudible)

Yellow So we try...making notes that if we want accurate information about the sites we

Bird: need to look at rather at a lake-by-lake graph because the reservation graphs are not going to either reflect...

McAllister: Again those are not final either, we can based on your comments to me right now, we can change that.

Hargrave: We can certainly put it by...

McAllister: That's an easy fix; extremely easy fix.

Yellow (Inaudible) lake-by-lake (inaudible) reservation, you are going to need some input

Bird: from tribes on these graphs because just looking at Three Affiliated it's inaccurate.

Hargrave: We weren't going to get into it here but the 106 issue.

Yellow Yes.

Bird:

Hargrave: I mean, (inaudible) good portion of the agenda.

Yellow (Multiple voices) ...Just wanted to clarify that point.

Bird:

Voice: (Inaudible) I'll save it (inaudible).

Hargrave: Okay.

Voice: Well, my question originally was partially answered but she covered what I was taught to say this morning.

Hargrave: Right and of course Omaha district is keeping it. We do have a database on the sites. We purposely in the EIS did not want to specifically identify sites. We didn't necessarily think that would a wise thing to do.

Yellow Rose, could we get a copy of that database? (Inaudible) Three Affiliated Tribes.

Bird: I've been asking for one of those for over a year now. Sorry, Becky. Everybody

keeps telling me it's not done yet. Three Affiliated Tribes would like a copy of that database. As well as all the other tribes (inaudible). The ones that we have (inaudible). Can we have copies of what you have done so far? (Inaudible)

Becky: I'll ask.

Yellow Okay.

Bird:

Hargrave: And, Becky, what's the status of the GIS database?

Becky: (Inaudible)

Hargrave: Okay.

Becky: (Inaudible)

Hargrave: Is the GIS database available?

Becky: Yes, that has been provided.

Hargrave: Great, do the tribes represented here, do you know if you guys all have that GIS database?

Voice: I went to a private contractor and had (inaudible) tribes database built, however, the question I have is GIS database using (inaudible) and so forth satellite or are you authorized by the tribes to get that information? Because it took me a long time to get our database built and we are kind of stingy with it because it's pretty complex. I don't know if there is out there making a database without the Omaha Tribal Council's permission for that data.

Voice: The only guide (inaudible) GIS database (inaudible) cultural session for the Omaha (inaudible).

Voice: So the Omaha Tribe would be within that?

Voice: Because we are closest to the district than anybody.

Voice: Do you have Corps of Engineers (inaudible)? (Totally inaudible)

Voice: As far as I know, we have cultural sites (inaudible) or the Corps of Engineers being willing to (inaudible).

Voice: We don't have a reservoir around our (inaudible). Closest point is Gavins Point Dam.

Hargrave: I guess what I'm hearing is our GIS database doesn't include? Okay.

Voice: Although historically we were in some locations (inaudible). (Multiple voices.)

Hargrave: Yeah, we are going to give everybody, at the end, we are going to give everybody the sign-up sheet.

So, I guess, just kind of moving on, what you are getting here in your notebook is a *piece* of the Tribal Appendix. It's not the whole Tribal Appendix but it kind of starts to give you a feel for how we are addressing tribal impact in the EIS.

The other thing that's not in here is, I think, at the Corps we recognize that we don't capture tribal issues well. So what we are including in this Tribal Appendix also is a compendium; it's a collection of every comment that the tribes have ever submitted on the Master Manual/EIS since the whole process was started. So for easy reference the tribes will have that to go back to so they can review what comments have been submitted on previous EISs. Look to see what kind of job we did address them. Those comments in the EIS.

Yellow Rose? Could you explain, I'm looking at one of these...

Bird:

Hargrave: Oh, sure, one of the charts?

Yellow At the charts, yeah. And you have numbers in there and some have minuses and

Bird: some have black and some have gray. I notice that light gray shading denotes a beneficial and black denotes an adverse affect. But what do the numbers mean exactly?

Hargrave: Okay and I think we were going to have Roy get into that; we could take the time and go into it now but I think that was tomorrow.

Yellow Tomorrow? Okay, tomorrow. All right.

Bird:

Hargrave: We were going to have Roy go into those charts, talk about how we evaluated the impact; what we are measuring. Sometimes we are using actual data; sometimes we are using indices to measure some of the impact; kind of describe how the analysis was done. But those are just kind of summary tables that we included so folks could get a look at what the impact tables are going to look at and of course the impacts are addressed in the main body of the EIS.

So that's kind of a synopsis of maybe the Tribal Appendix. We also tried to in the Tribal Appendix hit on what the Corps responsibilities are relative to the tribes. We identified the consultation history that we have so far with the tribes and then also in the Tribal Appendix, and I really hope everybody will take a look at this. We are laying out what we see as the consultation process with the tribes. We tried to marry it up with the NEPA process so that at critical points in the NEPA process (for example, at the time we go to identify a selected alternative, we think

a Commander from the Corps of Engineers needs to come out here and meet with the Tribal Chairmen). The same way when we move forward like to a Record of Decision (ROD). We think that we need to have a Commander out here to meet with the tribe. So we tried to pick key points in the process where we thought specifically there had to be high-level involvement here. We also at least identified in the process some sort of a process for unresolved issues. Particularly in terms of water rights issue, in terms of treaty issues. You know, I don't think we are going to get them solved in Omaha, Nebraska. I think it's going to take some Washington level involvement. So we are trying to at least allude to a process where issues can be elevated through the Assistant Secretary's office. In trying to account for that in the process too.

So the consultation history is in there and the consultation, the way that we view the process and we are open to that is also in the Tribal Appendix. In addition to that, this is a lot of this is working with the EPA throughout the document this time we tried definitely to be more sensitive to tribal issues; to recognize that the tribes have a special relationship with the Corps that the States and the United States that the States don't have. And so in the document we definitely changed things to recognize that that's a relationship with the tribes.

From this is just my perspective; I think we have made leaps and bounds here from where we were in '94 and where we were in '98. We'll continue; again, we evolve. We'll continue to get better, I think, as we get input from the tribes and

move forward.

So with that, I'm going to turn it over to the Fish and Wildlife Service now. In addition to the National Environmental Policy Act (NEPA) the other major statute that we are trying to follow here and to comply with very hard is the Endangered Species Act (ESA) and we'll turn over the microphone.

Yellow Bird: Can I say something? A little announcement, I had a call from Marjorie Milot, on the Advisory Council (inaudible) and she asked me to announce and to ask all the tribal government to put this date on their calendar: October 2, 1:00 p.m. at the Holiday Inn, Fort Pierre, South Dakota. Advisory Council has created a sub-committee of three of its members to come out to the Northern Plains and take testimony from our Chairs or Elders and other individuals on this date. They want to hear from us regarding the problems we are experiencing. There are cultural resources on the Missouri River. I'm also told that the Executive Director of the National Historic Trust will be in attendance at this hearing and will be on hand to testify in behalf of the tribes.

Voice: What's that location?

Yellow Bird: Fort Pierre, South Dakota. This is something that Lower Brule Sioux Tribe have been working really hard on and we all have Scott Jones to thank for this extraordinary occurrence. Advisory Council has gone to great lengths to create

the sub-committee. The city

(End of Tape 2)

Tape # 3

September 12, 2001 1:30 P.M. U.S. Field and Wildlife Service

September 12, 2001 U.S. Fish & Wildlife Service – Mike Olson

September 18, 2001 Corps of Engineers - Roy McAllister

Sapa: Tribes along its banks not only to the Fish & Wildlife within its banks. I have a two-minute video that Lex Haymes from the North Dakota Game & Fish Department shot a year or two ago relative to the pallid sturgeon and I think it's well done and I want to show it here real briefly and then certainly take any and all questions.

Video: That's why the U.S. Fish & Wildlife Service, North Dakota Game and Fish Department, the Montana Department of Fish, Wildlife and Parks came together in August to release new sturgeon into the river near Williston. It's hoped these fish will establish a new active pallid population. Senator Ken Carmide, Representative Earl Palmaroy, Game and Fish Director Dean Hilderbrand and Montana Fishery Chief Larry Peterman were selected to release of the largest sturgeon. Seven hundred fifty smaller younger fish were released by fish biologists. These fish are a study group equipped with radio tracking devices. We can follow their movements and learn what the fish need to survive. Pallid sturgeon are the oldest living thing in the river; if we lose them we lose of the river's sole. We lose an incredible determination to live 150 million years old.

We will have to make changes on how we use the river but isn't it worth it to preserve the oldest citizen of the Missouri? (Inaudible) make a comeback.

Sapa: That was a piece that Lex Haymes did for the Game and Fish a year or two ago. I thought it really kind of summarized what our work is about when we are trying to protect this fish.

Are there any questions, I know we are late in the day and probably the only thing standing between you getting out of here?

Voice: I just have one quick question. You were speaking about doing some testings on the lower part of the river. Now that would affect my tribal people down there because we are in the Northeast corner of Nebraska where our nearest reservoir to the north is Gavins Point to the south by (inaudible) so you are talking a long strip of river messed with by reservoirs. Now how will that affect the Omaha people and will we be a part of any consultation as far as activities going on?

Sapa: What the Fish and Wildlife Service has recommended to the lower 750 miles— from Gavins Point Dam to the mouth is to restore 20% of the shallow slow water habitat that was lost and couple that with some changes that in flows out of Gavins Point Dam which would be more appropriate for native river fish species like the pallid sturgeon. You have a page in there?

Olson: Yeah, there's a page in the summary document of Gavins Point—page 11. And what that talks about on the graphic there with the big yellow bar in front of it is...what the Fish and Wildlife Service has recommended, that's the rise there in May and June and the fall in the late summer months down to oh, 25-kcfs (thousand cubic feet per second) out of the dam. Will there be impact to your tribe? That's a question that I think the Corps is trying to capture in their Tribal Appendix. If you look at your tribal charts relative to the different uses on the river there should be some sort of an assessment of what it means to your particular tribe.

Voice: Well, it was in here and there was a couple in it that weren't addressed by (inaudible) I'm sure the individual was aware of them and they probably will be addressed but as far as being a part of it we would like to be from the beginning and not 200 years later when it's all checked out and oh, he's more of a consultantee. We want to be in from the get-go still. (Inaudible.)

Hargrave: You know, and we really haven't got into the consultation yet but the RDEIS the document presents six alternatives and four of those alternatives that we are looking at the impacts of, we haven't identified the a third alternative in the RDEIS. But four of the six alternatives that we are looking at includes the increase at spring release and the decrease in summer release from Gavins Point Dam and we tried throughout the EIS document to look at what the impact of those are and I guess what I say is that the part of our government-to-government

consultation with the Omaha tribe—we absolutely need to hear what the tribe thinks of the changes and releases from Gavins Point.

Olson: Not only the Omaha Tribe but from Gavins Point down would be Region 7 and there's nine tribes that would be affected by the lower...we're the lower river tribe.

Hargrave: Tribe, exactly. That goes all the way to the Kickapoo and the Sac and Fox down the river. Not only that when we change the releases from Gavins Point Dam, it changes the operation of the system all the way up. If you are releasing more in the spring, you have impacts on the reservoirs all the way up the river. By the same token if you are not releasing in the summer and you are holding back the flows behind the dam that impacts *all* the tribes along the Missouri River. So the change in Gavins' releases certainly the downstream tribes would be most concerned but it affects the system *all the way up*. So the tribes all along the river should be looking at the Gavins' releases real hard.

Sapa: Our job in this whole process is almost as a subcontractor dealing with this Endangered Species law that Congress passes 28 years ago. The Corps asked us, the agency that has these species under our mandates, how should they operate to protect these species or actually to keep from jeopardizing their continued existence. We provided that recommendation in this biological opinion. Now the Corps is taking this next step and looking at Tribal impacts, flood control,

irrigation, drinking water, navigation, hydropower and they are taking the impacts to all those other uses and comparing them to what we recommended for endangered species and that's what this next six months process is all about.

Maybe, unless I just bastardized that too badly. That's where we are at.

Hargrave: That's exactly right. Just talking about the Missouri River hydrograph and I know I'm going to be *way* over simplistic here. Typically in the Missouri River, before the dams were put in, and Mike talked about it...it just illustrates it better maybe with a picture. But what happened was, you got the fine snow pack and there was the peak and then later on, later in the early summer, mid-summer you got the full impact of the mountain snow pack melting off into the Missouri River. So there was kind of another... and in the summertime as the tributaries to the Missouri River dried up you had a situation in the summer months where the flows were lower. When we built the dam and we put the dams in place—you know one of the reasons the dams were put in place was because those spring flows caused a lot of flooding problems. So when the dams were built, we essentially flattened things out and kind of distributed the distribution of this heap of water over the course of the year. So the hydrograph maybe looks a little bit something more like this—cut off. And we flattened out the hydrograph of the Missouri River when we built the dam. And so the fish that had adapted to the peaks and the lows—that's not the river that they live in anymore. So real basically that's it.

Sapa: And what we recommended is just to point out this and that is that the Fish and Wildlife Service hasn't recommended that we go back to this type of hydrograph but something as represented by—it goes up a little bit more than current operation. We think that that will provide some (inaudible) these species have come down more in summer than currently operated.

Species can adapt and the science...this is a new science that is relatively the cutting edge. What do those river species need to survive? There's documentation out that that says it replaced 20-30% of the historic hydrograph, it'll keep those species alive and at least sustaining themselves. Now that doesn't mean you have to go back to the 100%; there's significant tradeoffs to the other uses if you go back this far but species may not need that either and what the scientific literature tells us is that it provides 20-30% back into this system—those species will survive and sustain themselves.

Hargrave: Maybe add one more thing, the flow piece of this—the Master Manual is all about flow. But the whole picture on the Missouri River endangered species is much broader than flows. It's about habitat; it's about hatcheries; it's about monitoring and evaluation and it's about adaptive management. So the flow piece of this, we're getting the NEPA coverage for it through the Master Manual. For the Fort Peck flows and Gavins flows, but the other pieces, the habitat, the hatcheries, all of that...the Corps is looking at how we are going to implement those outside of the Master Manual. Some of those actions are going to have a separate EIS

devoted just to that particular action. It's going to be outside the Master Manual. So what we are focusing on in the Master Manual is the flow piece, particularly the Fort Peck flows and the Gavins flows.

Olson: I think it's an important point because other than habitat is the things Roger addressed for listing endangered species, there was more than habitat. The short tape, of course, didn't cover issues such as contaminants, bioaccumulators, pesticides stuff, buildup, endocrine disruptors, I mean, there's a lot of factors as Rose pointed out that this is addressing just one of these to help with the recovery. But I think it's important to point out that there are a lot of other things and it goes along with the pallid being an indicator of the health of the river as well. If we don't address the health of the river it may affect the humans as well in the long term.

Sapa: I think that is why the Corps kind of beefed up their water quality component of the EIS as they recognized that issue. You have a question?

Voice: Raise my question of the ecology; (inaudible).

Sapa: Recommendations for Lake Oahe?

Voice: Exactly!

Sapa: Well, Lake Oahe is really covered under this inter-system on balancing. Fort Peck, Sakakawea and Oahe are the three reservoirs that on page 12, what we talked about one year out of three Oahe would be slightly higher; one year out of three it would be about what you see under the current Master Manual in one year out of three it would be slightly lower. What that would provide is a scouring of some of the beaches along the edge of Lake Oahe that provides...keeps the rush, thistle and Nicosia and some of those plants from being established which would be good nesting beaches for these birds but it will also provide—the year it's flooded—it provides game fish habitat for the Walleyes and the Northerns and the Perch that under the way it's operated now it isn't maximized.

Voice: Okay, I have problem with that because of the fact of all the erosion, the sedimentation, the silt buildup and two of the major rivers we have flowing. We have Lake Oahe on the east; Cheyenne River on the south and Muro River (inaudible). Now I could take you down there and you could put some waders on and you can walk out into all the silt you want to walk into and that's based on the current management of the reservoir. You'll have a level up here when we get ice on, all that sediment is sitting right in the mouth of all those flows. I guess actually move the mouth more or less (inaudible). In any other part we are looking into real seriously right now is mining waste. Just basically sitting in the mouth of Cheyenne River and it's moving closer and closer to our intake of drinking water.

Sapa: Well those are all great issues. The Muro and the Cheyenne are going to continue to provide sediment into Lake Oahe. The question becomes how is the Corps going to address that under the Master Manual. The Master Manual is about storage and about flows; so those are the two things that they really address in this manual and I think there are questions that we have to ask ourselves but maybe there's just a different process where we have to address mining waste and the issue with sedimentation. The Congressional Delegations in South Dakota and North Dakota have seemed to have jumped out of a lot of this sedimentation issue and they promote a different initiatives in the last two years. I know that Daschle and Johnson have talked about implementing some more best management practices up in the water sheds on the Bad River and on the Cheyenne River arm to see if they can't reduce by even 10 or 20% some of that sedimentation from reaching the Lake or reaching the city of Pierre where that delta is being built up. So there are other programs that I think address sedimentation but it's really a tough issue to get your arms around through the Master Manual.

Hargrave: Right. The sedimentation on the Missouri River lakes is a huge issue. In the way of background, all these reservoirs were designed with a certain lifespan in mind. And eventually all reservoirs fill in. The Missouri River reservoirs are no different. What's happened is in some of the areas where the sedimentation is occurring—there is infrastructure there now. And at the time the dams were built or were planned that infrastructure wasn't envisioned; it wasn't foreseen. So what we are having is the dams are filling in pretty much as they were; the lakes are

filling in at the rate that they were expected to fill in. Obviously, for the three lower lakes that have a lot less volume than the upper three lakes the filling in is going to occur at a faster rate. And I think, Roy, correct me if I am wrong, in terms of lifespan of the reservoirs, I think Fort Peck is around a 1000 years...800 and some years. And I think Lewis and Clark, the smallest of the lakes, has a lifespan of about 125 years. So the lakes still have a lot of longevity in them but sedimentation is a problem. It's going to continue to be a problem. A global solution on the Missouri River to the sedimentation issue—it's astronomical. It's almost unfathomable how you would ever deal with it for the whole Missouri River Mainstem System.

So most of the solutions we are looking at in terms of the sedimentation, they are either relocation of infrastructure; in the case of Fort Pierre, of course, buying out the homes that are there or else there are local type solutions. For example, building diversions near intakes so that the sedimentation doesn't occur near the intake. But they are all local type solutions; they are not global type solutions to the problem.

Yes?

Voice: Would this be possibly addressed in your Annual Operating Plan?

Hargrave: You know, we do look at sedimentations in the manual. Roy, do you want to say

anything about that?

McAllister: The main thing we say about sedimentation is that the processes that affect sedimentation on the Mainstem itself—the Mainstem of the Missouri River—are related to, of course, changes of flows. I flows, most people recognizes tend to cause erosion and that that water slows down that the lower flows tend to result in sedimentation being deposited out and also reduces the amount of erosion that occurs in upstream river reach (inaudible) occurs. But when there's tributaries coming in, those tributaries carry sediments in based on the hydrology of those basins. For example, because a rainstorm that occurs out in the Rapid City area, the Cheyenne River arm is going to send more water into Lake Oahe and in turn carry more sediments in. And so it's indirectly related to how the systems operate, now I can understand a gentlemen's point why don't we lower the lake and raise the stuff but it may affect a pattern of where that sediment settles out and that's where his concern is—it's settling out in the neighborhood of the intake. But again, trying to forecast where that happens when you are doing a study like the Master Manual addressing the impacts of 1800 miles of the Missouri River and 1300 miles of the Mississippi River, we don't get down to those nitty gritty, what happens to my intakes—specific intakes type thing.

I think what would be required there is some sort of mini-study to look at what's been the pattern of the sediment coming into the lake and what has happened as the lake has gone up and down. We've been through several drought years now

through different periods; did that that positional pattern change through those periods? That takes a really focused study to looking at that specific issue. So Master Manual is not going to address the intake problems for the Cheyenne River Tribes because it's not that it is a small problem it's just that we can't do focus studies for that type of fine point. There are other Corps authorities to get in and look at those types of issues and that's why like Senator Daschle and Representative Johnson are working with the Omaha district to look at what sedimentation studies to be done. What we've done to move these deltas from where they are creating problems and so I think that's the average goal for those type things. The operation of the system, I don't think, long-term is going to have that in effect that we can begin to describe what's going to happen. I don't know how to approach it.

Voice: If you get into, let's say the situation with (inaudible) will fluctuate, one year it's up here where sediment is; next you've got to drop down; well, if they get a gully washer of a rain out in the hills and you are looking at the (inaudible) and you're looking the Cheyenne River, starts in Wyoming, and all the tributaries attached to that and you dropping it down while it's moving it out. So it's a step—it's a stair step. So at your third year and fourth year when you're bringing it back up again with pushing that sediment out here because the lake's up; next it's just a little bit of stair stepping itself out.

McAllister: The lakes, the way that the intended operation would be is they change the level of

the lakes by about three feet. Maybe some years the operation may mean a five foot difference. But generally the pattern is not going to be a dramatic difference but again, quite a little testivity of you intake, you know, what's happening to that specific location. Maybe it is it may be very, very sensitive to those changes. During a gully washer when the lake's down carry those sediments as far into Lake Oahe as you can get them and then when the lake comes back up you get a reprieve for several years until it kind of builds up again and then you get another gully washer when the lake goes down. So maybe it might even to your benefit to that third year when the lake's down those sediments instead of staying near the shoreline where your intake is, they may be flushed further down into the main body of the lake.

Voice: Which creates the other problem which we're having. Not only the (inaudible). Knowing the fact that there is (inaudible) contamination particularly mercury. All that's doing is moving it out further down into a deeper channel and we've been doing studies on various fish species in the (inaudible) and (inaudible). Now in moving that down to the sediment (inaudible) further out to where, you know, what you're doing is your moving your fish species out further and further. Plus then when they're coming back up in the base; spawn or whatever else then they are in sediment—in contaminated sediment. So you are increasing the risk of them getting more of, let's say, mercury because we know it's going to take more of 100 years to mine that and it's going to take a lot longer than that to get that sediment unless you dredge the whole system out of it.

Olson: Our basic conclusion when it comes to this fish less contamination issue is that there's really not much we can do with the operation system because typically when you do go through a drought the lake's going to drop and as they drop get the wind wave action on those sediments that are already sitting there in that delta and they are going to come up there and re-suspend the sediments. (Inaudible) when the sediments are re-suspended that's when the heavy metals move into the solution in the water. The fish don't typically pick the contaminant of the heavy metals out of the sediment; they take it out of the water column as they bring the water to their gills and feed and so forth. And again, the chain of...a small fish may have a little bit of it; not all their food all has it in it so whatever they were eating too is haphazard so there is a lot of factors go into that concentration of that heavy metal in there (inaudible). But I don't think typically most of the fish are not bottom feeders like the pallid sturgeon is. And so they are getting their heavy metal that's accumulated in their bodies through the water column and so when the lakes come down and you are at the height; your minds are already clicking and you are right—if we pull the lake down pretty deeply we do put the water in contact with that sediment and re-suspend it too. So...it's something that's there that no matter what it's going to happen and you are going to re-suspend it. I don't think the operation that a bioaccumulation process is not something that can be controlled by the operation system. The control of that problem is getting back to the source of the contaminant to begin with and trying to keep that contaminant from getting into the lake and...

Voice: You (inaudible) down then? (Chuckle) (Inaudible) that?

Olson: They really know mining company's have—(inaudible) that dam. I don't know what the long-term solution that is. We felt that and as you read the water quality section in the report and I can't remember what it said exactly about how in the tribal section of the water quality write-up was said, I think we intended to address more in the water quality write-up those things that there were differences that occurred when we operated the system and whereas the general water quality write-up, the tables that are in there, they discuss all the problems and some of the things operation system doesn't affect; there's other things that some operations does affect. Then we got the tribal write-ups that help focus their review of the material and so forth. We identified what areas felt would be different under the operations. So that you can say that's good or bad for my tribe by seeing that water quality issue highlighted as potentially being this you are primarily concerned about.

Borland: Well, highlighted or not, the fact remains that way back when you first started doing this process and it doesn't mention anywhere in the Master Manual the cultural tide, the spiritual tide that we have with the water. See that...we had to issue a warning on our reservation because of the levels of mercury we were showing in different fish species. Now I don't know who it was but the Corps didn't want us to issue that; they said well wait a minute, we are not going to

support that. So we figure we don't tell people because we have a lot of people that fish for subsistence all along the river system and if we don't let them know then we are putting them at a higher risk as far as intake of the fish that may or may not be contaminated. There are so many factors that aren't addressed in the Master Manual about the tribes and cultural and historical use of the river system by tribes.

Olson: And in my opinion, I think you might find the Commander's opinion; you did the right thing by listing these. That's your responsibility as a regulatory group for that portion of the lake, to assure that your constituents are protected or aware of the issues and you did the right thing by listing them. I'm surprised when you said the Corps would say don't list this but that's maybe one person that's you talked to at the project or something. Yeah, you did the right thing.

Hargrave: Okay, I think if it's okay with the group, we do have an opportunity since some of our Federal partners couldn't be here to maybe wrap things up by closing this.

(End of side 1, tape #3)

Voice: I look through here and I see the closest one would be (inaudible) Pierre for us.

Hargrave: And that's what we need to hear. We need to hear *where* the tribes want them; *when* they want them and *what materials the tribes want to see*. Otherwise, it's

going to be all whatever the Federal government puts together, so...

Voice: Regardless you are going to get to a situation where down the road and then you're going to have privacy. You may have a reoccupation down at Pierre. (Laughter.)

Hargrave: Okay.

Voice: (Inaudible) looks like. What special (inaudible). (Inaudible) involved (inaudible).

Hargrave: Great.

Voice: (Inaudible) tomorrow (inaudible).

Hargrave: Oh, that's great, in fact we had told that (inaudible) more of a discussion type.

Yellow Can I ask a question? The gentlemen from Cheyenne River, just to clarify, did I

Bird: hear you say that the water there is so toxic you are telling your people not to use it?

Borland: What we have done is there are levels of mercury showing up in fish flesh.

Yellow Then not to eat the fish?

Bird:

Borland: We advised them as they can reduce the consumption.

Yellow And your tribe approached the Corps on that matter and they said they didn't want
Bird: to support you in that finding?

Borland: They didn't want us posting signs.

Yellow For crying out loud!

Bird:

Borland: We went and did it anyway but...

Yellow Well, yeah!

Bird:

Borland: Because in some of the areas where we put the signs up was considered a taken area but that was the closest place that like boats inputting; there's a docking area so that's where we put the signs and we put them in all the communities.

Yellow You know what, our tribal people that work on building ours (inaudible) Cheyenne

Bird: River? And could we have you network with our tribal people because we are in the same boat, you know? Even the occupation of in and out water and if Army Corps said they wouldn't support you on that; they didn't want you to put up signs. That's really (inaudible).

Olson: Sounds like maybe the issue wasn't so much they didn't want you to put out notifying the public there's a problem as what signs you were putting up and where those signs were going. Is that right or is it they didn't like you...?

Borland: They want me to put the signs on areas where we felt it were a necessity such as next to a boating dock. You've got fishermen coming from all over the country coming in there and if we don't advise that there is a potential problem with large consumption of fish that may contain mercury. What we advised them was pregnant women, children, elderly should reduce their consumption.

McAllister: North Dakota has done that up on Lake Sakakawea too. And in fact, that specific issue is identified the water quality analysis that is an issue, however, there's nothing we can do. The lake's going to fluctuate over time and they're going to put that sediment suspend them in the water column and have the metal get into the solution and the fish are going to get and there's nothing we can do right now to take care of the problem but I just can't imagine someone saying that other than... Don't take me wrong when I say this but we put the lakes there for various reasons and if the State of South Dakota and the tribes that want people to come and use them for recreation and get the advantages of recreation and so forth. It's not the Corps that goes out and tries to sell the recreation value per se; we do have recreation facilities they are going to be wrong. But I just can't imagine us saying don't put up the signs when you have a dangerous situation potentially. That astounds us though.

Hargrave: The other thing we didn't mention is, and this is not part of the Master Manual, but the Corps has a hazard toxic and radioactive waste program. Some of the, of course, ultimately getting to the source of those mining wastes and stopping it—it's extremely important. I know particularly in terms of the home state mining action there is an action under a different program of the Corps where they are looking at, with EPA, the responsible parties and looking at how the situation might be alleviated from the source. That's happening under another program.

Voice: You know another thing we didn't consider at Fort Peck is water (inaudible) entire Black Hills area. West to the east side of the Black Hills. You'll remind me?

Hargrave: Sure. Right. And I probably shouldn't have used it as an example.

Voice: We are not saying it's specifically tied to the home state; however, there's a list.

Hargrave: Right.

Sapa: There was a lot of mercury used in the types of mining we are talking about in the Black Hills. And the soils in western South Dakota also have naturally occurring mercury as well as arsenic. Fact is, I've review some literature where south of Fort Pierre, in the national grasslands there, that they had higher concentrations of some of the Bass in the flesh of the Bass. The higher concentrations of mercury;

higher than what we found in some fish in Oahe and the Cheyenne River arm.

Voice: That's something we are doing right now. We are building some background because there is a difference there in what's naturally occurring (multiple voices).

Sapa: I was involved in some of that natural resource damage assessment that they did on the Cheyenne River arm and the Whitewood Creek and for over 100 years the mining that was done and the mining tailings that were dumped in the Whitewood Creek—only 20% of them were captured in that Whitewood Creek Superfund sight; the other 80% are below and tied up in the Belle Fuch, the Cheyenne somewhere.

Voice: That's what we've been seeing all along the dam. The superfund sight. (Inaudible) When they did their (inaudible) and superfund sight said okay here's the border of Cheyenne River Reservation and that's as far as the superfund sight went. We asked them how did you contain it in that one location?

Voice: There's sediment all up and down that.

McAllister: Right.

Voice: Either they did it partially for recreation area (inaudible).

Voice: Well, the Corps of Engineers does have a (inaudible) and the (inaudible) that's one thing (inaudible).

Borland: It is because of what the amount of fishermen that go back up that bay area. The channel is where the camel should be (inaudible). And it's moving out further and further. Like you said when they get this level (inaudible) the worst time is when we get it up to a certain level and we get a lot of ice on it and then when that spring thaw comes and the ice gets when you have three or four or five different chunks of ice ripping soil up and the water is pushing it come further out.

Sapa: I think there is a study or (inaudible) of 2000 to study that up for (inaudible) ambulant sediment area you are talking about.

Olson: There's been a lot of work done on it; I've got about two and a half boxes back of my desk on it. I am going to learn more about the dissolving of different metals into the water column so I asked for the information on that specific site. I've got boxes at my desk right now and when I find some time in the next two to three months, I'll get to those boxes and look at it. It's an area I have a lot of interest in personally. My Master's Degree is in environmental engineering and I've benchmarked all the areas; so I personally have a lot of interest. I'm going to be looking forward to it.

McAllister The lower basin said no, we want to leave the current pool where it's at. They like

the way the system operates today and we want to continue to operate that way. So there's some tensions. So it's our job to identify how you might change the operation of the system and then in turn, you do change it in one way, what are the impacts of changing it that way versus changing it another way and what are the impacts that way? So that we could then do some comparative analyses, in other words, did this one change things a lot or did it just change things a little bit? The second alternative changes things more or less than the first alternative changed. So eventually when I show information today, I'll be talking about percent changes and does this one have higher or lower percent changes than the other one? We are trying to understand the relative differences among the alternatives.

Early on in those studies we decided to write an Environmental Impact Statement (EIS). I was around in 1969 when the first Environmental Impact Statement was written by the State of Wisconsin. I worked for the State Ecology Department of Wisconsin at that time. And people were trying to figure out how do you present impacts in an EIS. I said well, gee, if an impact is good, then let's put a plus ; if it's bad let's put a minus. If it's really, really good let's put a plus plus; if it's really, really bad let's put a minus minus. What does that mean? Doesn't mean a lot to a lot of people; it may have meant a lot to what the writer who wrote that document but there's no way to express what the plus means; is that really bad or good or just a little bit good or what? So as time has gone on the public is trying to better understand what these people are saying in their Environmental Impact Statements would ask that we quantify things; they would put numbers in there

and help us better understand what that change means.

So when we got involved in writing this Impact Statement (EIS) we wanted to put as many numbers in there to quantify things as much as we could and that required that we develop models and because of the massiveness of the system...

Voice: Why are we pushing on this one before you (inaudible)?

McAllister: Just to the point of reference; this year, for example, where are we going to be at the end of the winter? It says here, I'm just looking at your charts about 52 ½. Look at the February 28 number. Do they have a graphic in there? That gives you a better feel for where we are.

Voice: Just to compare it to the draw of the late 1980s.

McAllister: My guess is I haven't looked at the numbers; I've been so busy writing the impact statement that I don't go to the briefings on AOP, haven't looked at the AOP sheet in a week and so forth. I'm guessing up around 54 or 55 million acre-feet of storage. Nope, we had to be about 52...

Voice: That's where we are at now and looks like we'll go down to about 49.3.

Voice: What tribe is he with?

McAllister: Looking at the AOP presentation that's in there and what the front cover look like?
What's on front; what's it say on the front?

Voice: (Inaudible) cooperative. It's a blue outline of the U.S.

Voice: We have that but what page?

Voice: There is no page number on it. The top if it say Missouri Runoff above Fort Peck and then the bottom of it is a graph just like that one. And it looks like January 1 or September 13, 2001 it is projected to be at 52.5.

Voice: And it will drop on down to about 49 million acre-feet.

Voice: I think that should be January 1, 2002. 49 million.

McAllister: And so you see we are well above the 40.9 million-acre feet. So apparently, even though we are near the end the second year of the drought, at this point in time, we have not drafted near as much storage as we drafted... Remember this drought started in the middle of '87 but the years really good part is 1988 and by the end of the second full year of the drought. Oh, this is December so then the third full year of the drought we were down to 41 million acre-feet of storage. So we are about 8 million acre-feet less than we will be this winter. Depends on the period

of the droughts and what the downstream needs are and so forth.

But this is determined to unacceptable; the 41 was determined to be unacceptable by some of the upper basin states. Lot of the marinas were having problems for those of you from reservations that are on the Lake Sakakawea and Lake Oahe, things are a lot different around the shoreline of the reservation boundary adjacent to the or the shoreline adjacent to the lakes on your reservations. I understand the potatoes were the Standing Rock Tribe was growing potatoes down in the bed of the lake. Lot different situation then than what's there today and you took advantage of the soils that were there and I can remember when we were just across in the other building over here; we had a workshop here in 1998, had a gentleman talk to me about the fact that Standing Rock took advantage of the lake being down.

Sometime you can take advantage of the lake being down but generally the economic impacts are pretty negative. For example, in about the 1990 timeframe, (inaudible). Things out of the water (inaudible, noise) so again we have to be able to capture what that impact is in terms of dollars.

The kinds of economic uses that we look at are flood control; I tend to lump irrigation with water supply and we lumped water quality in the water supply and I'll talk about that a little bit later. Why we did that. Then there's navigation on Lower River, recreation, hydropower and flood control. The type of economic

benefits we looked at and we tend to characterize those in terms of million dollars a year of benefits.

However, there are also these environmental resource categories that we have to consider as we move ahead. By the way, we don't have these slides made up, we are going to try to get copies to you. Rick is over there right now, Rick Moore.

Moore: I'm right here.

McAllister: Did you take the disk over?

Moore: Yeah, I took the disk over.

McAllister: We'll probably get the copies back to you some time this morning or at least over the noon hour; so you have copies of these slides.

So we look at rivering fish, reservoir fish, terns and plovers. I didn't like that; I don't have that on slides; thought that this morning when I got up. Wetland habitat, riparian habitat and again historic properties. As we identify these impacts and look at what those impacts are, our jobs as Federal stewards of the lake system and basically some of the resources and uses that rely on the system trying to find a balance among these economic uses and among these environmental resources between, frankly, among (inaudible) between the economic uses and the

environmental resources.

So we've developed models to address those different economic uses of the environmental resources. So when I'm talking about uses I'm thought it could be about economic uses; when I talk about resources, I talk about the environmental resources from those two lists. Sometimes I get to the point where I talk about this so much and I've lived it for the last eleven or twelve years now so I tend to forget people don't understand what I mean by use or resource some of the basic stuff. So again, if I lose you stop me like Mike did and I'll try to clarify.

Yesterday there were some questions about the graphic that was put in the Summary on page 11. I'll try to explain what this hydrograph, if you want to turn to page 11 of the Summary and look at that, if you want to put some notes on it or something.

As we operate the system today under the Current Water Control Plan (CWCP) we follow this red line across starting here and you see both the Current Water Control Plan (CWCP) and I picked one of the Gavins Point options from the Chapter 7 and from the Summary to show the difference between. So the Current Water Control Plan (CWCP) typically will release somewhere around 20-kcfs from Gavins Point Dam thru the winter and starting in late March we will increase the releases to a point that we need to in order to meet navigation targets on the Lower River at Sioux City, Nebraska City and Kansas City. In the spring typically

we are on the Sioux City targets and the Sioux City target normally is 31-kcfs; that requires that we release somewhere up around 30-kcfs in the springtime.

Sometimes it's down around 28-29 but somewhere around 30-kcfs is what we'll be releasing in the springtime under the Current Water Control Plan (CWCP) and you'll see that under most alternatives we'll release that in the springtime.

Somewhere around May 10-May 15 birds, the terns and plovers, that have been flying around on the various river reaches finally decide it is time that we need to start our nesting and so they'll start scratching nests in the sandbars, the clear sandbars and island areas along the reach of the river that they are going to inhabit for the summer. And so historically before we operated specifically for those birds in the...starting around early May, flows generally used to increase across the summer and the reason why the releases from dams have increased across the summer was that tributaries would tend to dry up. Just around here the stream is going to have water in it, it's probably going to have more water running in it in the spring when the snow pack is coming off and the spring rains occur than it's going to have in August when you haven't had a rain for two weeks. In the case of Omaha this summer, we didn't have rain the whole month of August in Omaha. That means that there's not a whole lot of water flowing into the streams and in turn the streams aren't putting a lot of water into the Missouri River. So those dousing tributaries dry up we have to increase the releases from Gavins Point Dam gradually to meet maybe a target at Kansas City in late July or early August.

So typically if we go back to look at the historical records we always had to increase releases across the summer. Well if you are a bird and nest on one of these islands or sandbars the flows keep coming up eventually that nest may be inundated thus the eggs would not...the small birds wouldn't hatch in the eggs or if they were small enough and couldn't move around on the island, the small birds would be killed. So starting in 1988-89 timeframe we started going up in releases as soon as birds started getting on the islands and in 1995 we started running a flat release out of Gavins and we determined what this release was based on what we felt the lower basin conditions were. If we had a wet lower basin, we would not release as much extra water in May knowing that we would not need as much water from the system out here. In a dry year in lower basin we might release a little bit more. When we modeled 34,500 flat release for this study; so when the birds started showing up we picked what release we were going to make for the summer and we try to hold that all summer long. In this case 34,500 until the birds fledge, they fly away and there's no need to operate for them any longer and we drop back down to whatever the NAV release is. Sometimes we might even go up because the tributaries are really dry and we have to have extra water. But I think as I say here an idealized Gavins Point release in a normal situation assuming that somewhere around the end of August the tributaries start putting plenty of water out and we would then reduce our releases for the rest of the year. This could, like I say, just as easily have continued on straight out or gradually increased or gone out and decreased. It's whatever is needed to be the NAV target after that in the August timeframe.

And then around November, depending on how much water we have to get rid of, we may extend the navigation season ten days into December, which means that we would cut releases about the first of December. If we don't extend the navigation season because there's not enough water to extend the season then late November we'll cut the releases and we'll go back down to that 20-kcfs we started the year out with.

When the Fish and Wildlife Service put out their biological opinion and part of their regional and prudent alternatives included in that biological opinion they identified how they would like to change this hydrograph of Gavins Point Dam. What they said is we'd like to have a spring rise (higher springtime flows) followed by lower summer flows. So I'm going to show you what the flows would look like if we were operating under the GP2021 alternative. This is Gavins Point 20 means a 20-kcfs spring rise; 21 means we best get down to 21-kcfs so you see we are running 21-kcfs in this picture here. So the numbers in the GP options, in the Summary, means something. The first two digits identify what the spring rise is going to be; the last two digits identify what the summer low flow is going to be to the nearest thousand cubic feet per second (kcfs). For example, GP2028 would mean there would be a release of 28.5-kcfs (we just round it off to 28-kcfs); we can only have six characters maximum in our names for the models that I'll be showing here. So GP28 would mean we run 28-kcfs or we run across here, which is the white line; look at your graph the white line; the

white line runs across here for GP2028, 28-kcfs. Again, I'm showing the 20-21-kcfs options. So what happens somewhere around the middle of May, between the first of May and the middle of May the Service said let's go up with a spring rise of +20. So here's 30 + 20 takes you up to +50. Hold that for two weeks at the top and then come down for another week and continue on down (inaudible) by about the 21st or 22nd of June you are running 25-kcfs out of Gavins Point Dam. On July 15, drop that release to 21-kcfs and hold that for 30 days and on August 15 take that release back up 25-kcfs until September 1 and then you can do whatever you need to do to meet navigation service, evacuate water from the system, whatever the requirements are at that point in time in terms of what the Master Manual calls for operations of the system.

So it was to revise the operations in this timeframe; have a spring rise followed by lower summer flows and the reason for that is, as Rose talked about yesterday, was to go back and she shows here the spring rise that happened historically; to mimic the spring rise followed by lower summer flows then are current operation of the system.

Does anybody have any questions about what that figure shows? We show two alternatives in there and we show a lot of patterns—28-kcfs summer flow with a 15-kcfs spring rise so the white line from that graphic in the Summary sits about here and sits right across here. And then the lower darker line there, and I'm not able to tell especially from this distance, is this line here on up to higher release

and down on to the lower flow. That's the range of flows we are looking at. The Service just to let you know what the reasonable, prudent alternative had, they said the spring rise should be in the range of 15-20-kcfs; we'd like to have you start 17.5-kcfs. In other words, start in the middle of that range between the white line on the graphic and the top of the plot on the graphic in your book. They said we want you to follow this pattern in the summer. And the Corps is saying maybe we shouldn't go lower than 28.5-kcfs for the summer for the release in Gavins.

So we are covering in the Environmental Impact Statement (EIS), in the Summary, operations that follow this pattern through the year and that's the Current Water Control Plan (CWCP) and the Modified Conversation Plan (MCP). They follow this pattern through the year and then there are the four GP options that have different options for the spring rise combined with different options for the summer low flow included in that.

We have one that has 15-kcfs combined with this low summer flow; we have another one 15-kcfs combined with a 28.5-kcfs which is the white line that's on that plot. We have one that has the spring rise of 20-kcfs combined with this low flow pattern; we also have another alternative to have the 20-kcfs combined with the 28.5-kcfs. We have four options. The reason why we did four was we covered the range and made sure we covered the range here and the range here but if we started out with, let's say, the 15-kcfs and 28.5-kcfs your next choice under adaptive management could be to increase the spring rise only. So then you'd

have the spring rise of 20-kcfs and the 28.5-kcfs or you may change only the summer low flow. Well, you've already got; you might change this summer low flow so you might be in the 15-kcfs in the spring but have a 25-21-kcfs split in the summer.

So we wanted to make sure that we covered in the EIS and try to describe to the public...

(End of Tape #3).

Tape # 4

September 13, 2001 P.M., Roy McAllister – Corps of Engineers

McAllister: First of all what is the impact that Current Water Control Plan (CWCP)? Then if we change the Modified Conservation Plan (MCP) and I'll talk a little bit more about Modified Conversation Plan in a second but all that did was change how we operate in droughts. It left more water in the lakes; it left less water loose from the system in the summer because we didn't draw those lakes down as low in the drought periods. And so it still has the same pattern from Gavins Point Dam and so then we identify what would happen if we just changed those drought conservation measures. Change what happened during the '30s drought. Change what happened during the '50s and early '60s drought. Change what happened

with the (inaudible) in the late '80s and early '90s. And that does have an impact overall in terms of how wetlands are affected; how tern and plover habitat are affected; how historic properties are affected. Because the lake levels would stay higher during those droughts and the river flow would be less than they would be under the Current Water Control Plan in those droughts.

So we identify the change from Current Water Control Plan to the MCP— Modified Conservation Plan and then we would next go to the smallest change for the MPD, which is the GP1528. So if you would stop and think what the smallest change from the Current Water Control Plan at Gavins, we have this option and this option. The smallest changes go to the 15 and in the summer you have a choice of going to 28 or this option, smallest changes for the Current Water Control Plan would go to 28. So we said let's see what happens if we can make the smallest change of those four options at Gavins Point. Then we identify what that change means. Let's say if we went with that plan first, now you know what change would occur from the Conservation Plan to that first Gavins Point option plan. Then next we said well, under the adaptive management you may change to one of the other three options in the future. So then we talked about what would happen if you increase the spring rise? What would be that impact? What would happen if you would decrease the summer low flow? What would be that impact? What would happen if you changed both of them at the same time? What is that impact? Compared to what had been from where you started in that point in time. So if you changed this and went down to here, what is that going to mean in

terms of impact? To various uses of resources.

Does anybody have any questions about the six plans that we have? We can show a slide that depicts that; there's not...the only description in...that's a real quick description. Maybe we can turn to that page and read through it right quick. There's an introduction page. Go to the introduction page which is page 3 of the Summary and that second paragraph says, "The primary purpose of the RDEIS is to analyze the environmental effects of a set of six alternative operating plans for the Missouri River Master Water Control Manual – the Current Water Control Plan (CWCP), a Modified Conservation Plan (MCP), and four alternatives that add various Gavins Point Dam release changes to the MCP. These latter four alternatives, referred to as the Gavins Point (GP) options..." That's not the paragraph I wanted. That lists the six plans and turn back to page 11 and look at Gavins Point changes. So if you turn to page 11 that page we were on that third paragraph. "Summer flows... I don't think it's in here.

Voice: Do you have a copy of the press release that went out because it was very clear on the six alternatives and it explained each of those alternatives? Maybe we could make copies of that.

Hargrave: I think I probably do have.

McAllister: But anyway the...I kind of describe what you need to know. The four GP options

are GP1528; so 15 is 15-kcfs spring rise with a 28.5-kcfs or minimum service navigation release for the summer. Next was the GP2021 that represents the opposite end of the range. We'll drop that to 20-kcfs spring rise with a 21-25 split in the navigation season and then we have the GP1528 which is 15-kcfs with a 28-kcfs here and then the GP2028 which is 20 here and 28 here.

Voice: We have a question back here.

Voice: You may have already answered this; it's a real quick question. If the idealized Gavins Point release is the green line is what the U.S. Fish and Wildlife Service uses for their alternatives. Does that allow for the full navigation system? Just wanted to know...

McAllister: Yeah. Navigation would have to be off the river about this point in time here.

Voice: So it would be a split season that was discussed. Especially the last couple of years.

McAllister: Right.

Voice: (Inaudible) process.

McAllister: Navigation would be off. Some people felt it was off for 30 days but no it would

be off from sometime in mid-June until sometime in early August when the releases would be such they'd to go down the mouth. You've got to remember it takes eleven days for water to travel from Gavins Point Dam to the mouth. So flows are low enough in the river they may not be able to start navigating on the river until sometime in September.

Voice: I realize this isn't necessarily the place to discuss politics of it. I don't think that's particularly realistic. (Inaudible).

McAllister: And that's why in the Environmental Impact Statement (EIS) we included a range of navigation impacts. We said that navigation under this type of flow option or release option from Gavins, the navigation benefits could range from about \$5-\$5.5 million, which represents navigation coming in and taking advantage of the water release in this timeframe and this timeframe every year and then there are also some years when the pattern there's extra water all year long because there's so much water to get rid to like 1997. So they would come and take advantage of those years and on the other end of the option the navigation just can't make a profit on the river and they just leave the river and all that's left on the river or using the river are the sand and gravel operations and then the Corps would continue to maintain structures out there because that is a bank stabilization project. So even if you're not navigating on the river you still have to maintain those structures until you have to move what we call the waterway materials to ensure that those structures continue to be maintained properly.

So that comes out to be about a million dollars a year.

Hargrave: So in the Army EIS we are looking at like the best possible outcome and the worst possible outcome for navigation. The other thing we are doing is so we capture the full range. But the other thing we are doing is between the draft EIS and the final EIS we're contracting with Tennessee Valley Authority to look at the issue harder to see if in fact that would be the end of the Missouri River navigation. If we went down say to the 21 so that rather than just relying on what the industry tells us that we actually have a better economic analysis of whether that would actually end the Missouri River navigation.

McAllister: If you look on page 16 of the Summary, we're going to jump around here a little bit but that's fine. On page 16 of the Summary it has a bar graph at the top that shows the navigation benefits. You'll see that there are two—there's a high and a low option for the GP1521 and GP2021 alternatives. So those are the two alternatives that have the summer pattern on it. As shown here on the screen and we show the benefits range from about one million dollars a year up to about \$4.8 million a year. So what we are saying right now that we are not 100% sure that navigation will leave the river; if it does stay on the river and fully use these periods plus those years where it fills in the whole year because we've got so much water to get rid of that they'll get about \$4.8 million worth of benefit. The real number may be in between. In other words, what we feel and there are others

out there that feel if there's business on the river and you've got these high-flow years, you've got the wet springs and they come up to Kansas City but there's not enough water to get on up to Sioux City, they'll take advantage of getting up at least to Kansas City and move some commodities and so the real number may be somewhere in between these two sets of numbers. And that's what we are going to try to get a better handle on. If indeed they would come in and navigate the river where would they be in that range of benefits?

Voice: Roy, could you (inaudible) make up analysis...impact current system that we have for water (inaudible) EIS?

McAllister: Like what was happening in real life today versus... The Current Water Control Plan comes as close to that as we can do. The reason why I say as close as we can come to it—there are a lot of decisions made on a day-by-day basis that don't follow the exact criteria in the Master Manual. Not because (inaudible) what is called discretionary authority that allows them to go outside the actual numbers and I guess it's important to talk about that right now because...

Voice: We're trying to figure out where (inaudible) dam generate.

McAllister: In terms of dollars, yeah. We have Current Water Control Plan is as close as you'll come to that number. And it's somewhere around \$700...

Voice: Overall benefits?

McAllister: Overall benefits?

Voice: \$241 million.

McAllister: \$241 million.

Voice: For all of them?

McAllister: Yeah, for all of them.

Voice: Annually?

McAllister: Yeah, that's the average annual.

Voice: How does that...do you have a rate on that? Like on terms of the...is that hydroelectric?

McAllister: That's all hydroelectric.

Voice: Is that navigation; is it (inaudible)?

McAllister: That's all hydroelectric. Summer (inaudible). One million dollars.

Voice: Are you generate (inaudible) navigation (inaudible)?

McAllister: Yeah, that's the next part of the presentation.

Voice: Oh.

Voice: Good lead-in! Excellent question.

Voice: Under Gavins Point release in order to fluctuate this is where we're going to be (inaudible) unbalancing the reservoirs (inaudible).

McAllister: Right.

Voice: So at some point say Fort Peck (inaudible) buildup (inaudible) additional releases at Gavins. How is that going to work (inaudible)?

McAllister: The way that it will work, there's one criteria that's included in all the alternatives of the model except for the Current Water Control Plan and that is called balancing the system. What we do unbalance is the upper three lakes only: Fort Peck, Lake Sakakawea and Lake Oahe. Again the easiest way to discuss that is to turn to page 12. Look at that graphic. Let's say that this is the year of the Fort Peck Lake is to

be drawn down. What we would do is we would allow Fort Peck Lake to what we call...first year, second year...okay, first year you draw down about three feet and you hold it down at that level for the second year unless you have high in-flows and then it would sit there and kind of fluctuate, but it sits there does what we call flow, now down about three feet. That will allow vegetation to grow around the rim of the lake and the third year you fill that lake back up to its normal level and so you inundate that vegetation which is beneficial to the...

Yellow We can't hear back here; we're having a conversation off the left and it's difficult
Bird: for us to hear. Excuse me; if you guys want to have a conversation do it out in the hall please.

McAllister: Any sidebars out in the hall, okay.

Yellow Really distracting and we can't hear. Thank you.

Bird:

McAllister: So the reason for that initially the reason that that type of alternative or operation purpose was that the history resource managers of the three states of Montana, North Dakota and South Dakota said that we need to do all that we can to enhance our fisheries and we'd like to have you help us by creating this vegetation around the rim of the lake and inundating it so that the reason for inundating that vegetation is that vegetation serves as a fine (inaudible) for spawning period for certain fish species and then after the fish hatch and are in a very vulnerable state,

of course, develop cannibalistic and so the young fish need that vegetation to hide in until they are big enough to get out and move around and get away from them.

Voice: One more question. When you release from Gavins Point, say Fort Peck reservoir the tanks that sit in water, then all of the other reservoirs certainly have to. They'll be maintained (inaudible) to that.

McAllister: You have to remember there's water coming into the system during that time.

Voice: As you go, right.

Olson: On thing that we were talking the other day about Fort Peck, when do you start that release; what triggers that specific date; we want to have the flow at Landusky, Montana or is it so many days after the water first starts coming into the upper end of the lake high-flow? Steps up the lake level come crashing down; there are a lot of factors that go into that. And the lake will not necessarily drop three feet during the spring rise period out of Fort Peck. I used another term—spring rise. All the alternatives except for the Current Water Control Plan also have a spring rise out of Fort Peck, which is important to (inaudible).

So the lake doesn't drop three feet just during that one little period.

Voice: What is the elevated level of river going (inaudible)?

Olson: The flows that occur out of Fort Peck during the spring rise period in Fort Peck are about 23-kcfs of the model. The Service doesn't (inaudible) of 20-25 in the springtime, model 23. Out of Garrison there would be higher releases to in the year it was drawn down and you are trying to move water through the system as well as to raise Lake Oahe. So that's one of the things we address in the EIS. If somebody doesn't get into these details and if you want to hear these details you need get the EIS.

Voice: (Inaudible) navigation and with all the water Gavins Point (inaudible) and all that rain coming (inaudible).

Voice: Comes from all of them.

Voice: So they're all to release (inaudible) rainfall to raise that water level up (inaudible).

Voice: Somehow or another they will. Some are nearing...there's some interest in the operation that was done there adjustments made in various lakes that are hard to explain because they are set up to meet the hydropower needs; so there's not exactly the same amount of water and storage even today in the Current Control Plan; there is variability through the years. Like to have Lakes Fort Peck and Garrison set up a little bit high in the fall so that you can have your winter hydropower production out of those. Fort Randall Dam or Lake (inaudible) is

drawn down in the fall so it has space for Lake Oahe releases to go through Lake Sharpe and on into the powerhouse at Big Bend Dam and on into then Lake Francis Case. So there are a lot of adjustments that are made there.

Voice: And in your Summary one more question and I'll let you go. In your Summary, do you have low comparisons of this for places like (inaudible) Point or Culverson? So we would know if there's a difference now between the current water control and what is going to happen when this is (inaudible) unbalancing?

McAllister: The EIS doesn't go into that type of detail. That's really getting down into...that's why we are going to be having workshops. We'd like to have you come to workshop; I could sit down at the computer and show you what it would be from year-to-year. We can show you average annual or annual values...I'm trying to think. EIS...we didn't show information at (inaudible) Point; we showed how things might change at Bismarck. Because we have an urban area; we noticed that there was slight increase in flood damages in that reach; so the flows support that bottom line, but yeah, there are some higher flows. And again, some response to getting the water downstream for this. Down in springtime for the spring rise.

The system is operated as a system, so consequently change...what comes out of Gavin can change all the way up through the system. That's again why we develop these models I'm going to describe in a little bit to show what the changes would be to the different resources and uses. (Multiple voices.) (Inaudible.)

Yeah, the slide show it with that and it's within the Tribal Appendix that's included in the handouts for this meeting.

Voice: (Multiple voices.) (Inaudible.)

McAllister: One table for each tribe.

Yellow This is not accurate.

Bird:

McAllister: Well, we'll get into that (inaudible).

Voice: (Inaudible).

McAllister: Yeah, we talked about that yesterday. I'll get to that. I changed two of the slides already; I didn't have the data with me to change the other three, but they'll all be changed in the EIS when it comes out. We appreciate your comment because we didn't know how to approach that and you gave us a good option to follow.

Voice: (Inaudible).

McAllister: I'll tell you what my personal feelings are on historic property numbers because we've been told off and on throughout the whole study about the weaknesses of

the various models and historic properties model has weaknesses just like each one of the models has. For example, navigation we have already talked about how we can't capture those benefits of our current model; we are going to go out and do some special studies to try to understand that. So we've done special studies in hydropower; we did a lot of different studies as people have identified issues, we've gone in and tried to find ways to get those answers for him.

Voice: We'll talk about the historic properties in a little bit when we get to that.

Voice: Actually the alternatives are on page A-6 of the Tribal Appendix. Just a short (inaudible) description of it.

McAllister: I personally have not seen that Appendix. Rose is the one that worked on that and I was surprised in fact when I saw it had the impact tables in it so. That's the first I knew of it when I saw that. I thought of the Appendix what about Monday?

Hargrave: Right.

McAllister: First I even knew the tables were in there.

Voice: Then each of the charts then have the alternative; is that how it works?

McAllister: Yeah, the alternatives are on the top...

Hargrave: The alternatives are across the top.

Voice: They are going to pass those down according to the topic.

McAllister: Yeah, some of these you won't have a lot of interest in; I'll just run through them and if there is one you want to stop and talk about in a little more detail, stop me and I'll go into it.

Under flood control analysis we looked at what would happen in terms of flood damages should we not operate the system. We just let the water come in, run on down the river and we have...the flood of '52 would have been the flood of '52 in Lower River. That was the flood of record that Lower Basin; people on Lower River remember because that was the last big flood on the Lower River across the entire reach. So one, this alternative has no dams in it or assume the dams are not operating in it and that gives us damages. Then we go through and we run the model to determine what the damages are under each alternative. And the differences between those are the flood control benefits. So flood control benefits are around \$400-410 million a year; the damages under the uncontrolled flows might be, let's say \$800 million a year; damages under the Current Water Control Plan (CWCP) are, let's say, \$400 million a year and so the net benefit—the difference between those two are \$400 million a year so that's how we arrive at that number. We have information on what levels do the flood occur in each

reach; what type of crops are growing in that reach; what type of buildings are in that reach; how many buildings are in that reach; what are their values and so we run them all under water; we identify how far up on these structures and what fields are under water and what would be the damages for the different alternatives. And we come up with flood control benefits that way.

That's the way we do flood control benefits even today. When there's a major flood on Lower River or there *was* a flood on Lower River because (inaudible) we go through and we compute what flood damages were prevented. So we have to go through and do the reverse process so we are dealing with the Master Manual. We know what floods occurred when the flows were controlled but what would have happened had the flows not been controlled. So we make estimates of what the uncontrolled flows would have been and what those damages would have been and we take the difference and that's the benefits the system provided. The same type of analysis whether you are looking at what would happen if you change plans in the future and what happened last year; what floods did we prevent and what were the damages we prevented last year.

Navigation benefits are determined...I'll just give you an example, let's say you are going to take a barge load of grain to New Orleans to be put on a ship to be shipped to China. We look at how it costs to run it by barge all the way to Sioux City, let's say it's going from Sioux City to New Orleans. We know what the cost is to ship it into New Orleans by barge; then we go through and look at what other

way would you move that grain if you didn't have barges. We could put it on a (inaudible) train and run it down to if it's going to China we'd run it down by (inaudible) train to Houston, Texas or you might put it on trucks and run it over to the Mississippi River and put it on a barge on the Mississippi River and run it down river. We look at different ways you can move that same barge load of grain and determine which of one of those other ways is the least costly way of moving that other than by barge. Then as we find out what that cost is, we find out what our cost is to move by barge and take the difference and that's the benefits that that barge provided. So we look at the differences between with and without barges on the river and we come up with the least costly alternative and compute the benefits off of that. So we have the value per ton to move corn at a value per ton saved; when we move asphalt, when we cement; when we move waterway materials; when we move whatever commodities we move on the river we know how much money is saved by running it by barge versus by running it by some other method.

Voice: What is the some of the other criteria other than economic analysis including cultural, historic preservation?

McAllister: Yes.

Voice: Is all that factored into your alternatives? Economic impact.

McAllister: Not the economic impact. That's why when we put those tables we show

percentage of change. That's the thing that makes them all equal—it's about dollars. We do not have a dollar value for that but we could stop and say that you can come up with some sort of dollar value. In other words, if you are trying to operate for a specific resource and you develop a plan to operate for that resource; compute the economics for that plan operating for that resource and then do another plan that doesn't specifically operate for that resource; you take the difference and you find out the difference in benefits. That tells you what did it...what money was saved or what extra cost was incurred to operate for that resource. Then we do that for in a lot of ways of studies. In other words, when we operate for Fish and Wildlife Service (inaudible) to operate; how much of that cost is in terms of dollars; what does it cost in terms of hydropower dollars or did we gain hydropower dollars. So in a way you can get at it if you can identify an operating plan that meets that specific need.

Voice: So those factors are included?

McAllister: Hydropower—we look at if you don't get power from the Mainstem Reservoir System chances are you draw it from a new power plant that had to be built to meet that type of load. If you have a facility that's had a lot of peaking capability in it, there'd have to be some sort of peaking plant built somewhere else out there to provide that energy that the Mainstem System didn't have. The reason why we say it has to be built is that basically there's not a lot of excess capacity in the system out there and so we make the assumption that if you are going meet this

need you have to build something and we know what it costs to build that type of facility is. In fact, it's a mixed facility.

(End of Side 1, Tape 4)

McAllister: (Inaudible) megawatts. If we move the megawatt capacity from the system we know that it's going to cost X number of dollars to replace that megawatt capacity. If we lose the megawatt hours (MWh) of energy from the system, we know how much it would cost to buy that from another facility that would have to be built up there.

Voice: Roy, could we have a brief (inaudible)? (Inaudible). Talking about reservoir and the megawatts.

McAllister: There's been (inaudible).

Voice: (Inaudible).

McAllister: It's not in the Summary; it's...

Voice: Where would we look at that?

McAllister: We have...it's not in any of this material. You have just the EIS. The EIS, just to

give you an idea, the EIS is...

Voice: (Inaudible.) It's hard to make out...you know.

McAllister: Well, that's why we are doing the workshop

Voices: (Inaudible.) ...give us some idea as to what you generate (inaudible).

McAllister: We are going to have a workshops and we'll be able to sit down with you and go through and identify, answer your specific needs based on the information within the EIS itself and sometimes the answer is not in the EIS but we can try to get you the answer by looking at data that we have stored in our computers. You stop and think as all these resource models—most of them are multi-time step models, meaning that they generate yea number per each month. So if you were to look at the 13 resources in 100 years you've got a tremendous amount of data; you can't go through and identify every little thing. But if you have specific information need we can sit down and try to give that and answer that question right away. The EIS may have an answer in it; if it doesn't have the answer in it we will try and get you an answer by looking at the data that's in our computer.

Voice: Are you talking about (inaudible.)

McAllister: Talking about (Inaudible) will come the end of this month. That will accompany

this.

Voices: (Multiple voices-inaudible.)

McAllister: That's why we have a six-month comment period.

Voice: (Inaudible) six months (inaudible).

McAllister: I understand.

Voice: Very appropriate to have these...

McAllister: Six months doesn't buy a lot of rope the EIS, you wouldn't want to...

Voice: (Inaudible.)

McAllister: I understand exactly.

Voice: And so how are we going to get (inaudible) something is forthcoming?

McAllister: The EIS will come out the end of this month.

Voice: But you said (inaudible).

McAllister: Then I don't know what your question is, that's why...

Voice: I'll rephrase my question. Each of the dams how much revenue (inaudible) exiting right now with the proposed EIS (inaudible) change (inaudible).

McAllister: We can tell you the full levity generated; we don't have it by dam, by dam, by dam. It's not but we *can* get that; let me stretch it, I can get to that number.

Voice: And each of us have a specific region, it's very appropriate.

McAllister: But it's all lumped into a total...what's generated at Fort Peck may end up in Minnesota somewhere or may end up over the Divide.

Voice: I understand that.

McAllister: So we don't track the electrons individually; we just look at as the total system basis.

Voice: (Inaudible.)

McAllister: We can, we can do it that way but the problem is being our methodology is that what step in the process in computing firm power and Western when they market

they don't have a firm power commitment from Fort Peck; they don't have a firm power commitment from Gavins; they have a total power commitment from the whole system. So the hard step in the process is how do you break that firm power commitment down in the system into what may be allocated to each one of the dams.

Voice: But when controls change at each of the dams (inaudible) as an impact; (inaudible) these are moved by each dam (inaudible); do you have that information?

McAllister: And you will not get that is what I'm saying. You will get a total system hydropower impact. Because the hydropower is marketed as a system's power. They don't market Fort Peck Power one part of the country; market Gavins Point Power to another part of the country and so forth.

Yellow: Well, then if you have at least one tribal nation here requesting information so that we can deal with an issue that's critically important to us as a sovereign nation and, Rose, I'm going to ask that we get that breakdown. It can be done.

Voice: Oahe could do it. Oahe could.

Yellow: Anybody can do it. You've got to get that information and then I just need to make a point here that a sovereign nation is asking for information and we are being told we can't get it. That's not true; we can get it. Okay, we need that

information.

McAllister: Let me ask.

Yellow Let me finish. We need that information in order to initiate official consultation

Bird: with the U.S. Army Corps of Engineers. Okay, Rose? Thank you.

McAllister: Next then you are telling me what the per power commitment is about—Fort Peck Dam.

Voice: At Fort Peck Dam, we can tell you what's been generated.

McAllister: I need firm power commitment.

Stas: Well, when the contracts are marketed, as you know, on the (inaudible) normal years on the system and there's power that gets moved depending on if you are unbalancing reservoirs or there is a flood going on; we buy surges of power. We market our 20-year contract and our allocation to the tribes as well. (Inaudible) megawatts based on a normal water year. So that's on a given year, we can tell you after the year is over how much was generated from each dam and how much was sold. But it is not marketed as dam-by-dam. It is not marketed that way.

Voice: Just, if you look at even Cooley Dam out there (inaudible, noise). I think we've

got a historical record of how... (Multiple voices) They have a really good analysis.

Voice: How has it been marketed and generated over time and each year. I think the Corps has had it on record as far as trying to project; it's based on what the system, not only the Corps dams, but also (inaudible) Dam and Canyon Ferry and (inaudible) Dam and Yellowstone Dam is all Pick-Sloan. This part of the system is the Pick part but it's (inaudible) part of Sloane.

Voices: (Multiple voices.)

McAllister: I know how to get it from my end. I'll get it for you.

Voice: Should be a formula. It's all based on acre-feet of water, right? It should be formula based acre-feet of water.

McAllister: I know how to do it.

Voices: If Cooley Dam can do it why can't Garrison. (Multiple voices.)

McAllister: I'll get (inaudible).

Voices: (Multiple voices.)

Voice: We are talking about two different things here. You're talking about marketing; we're talking about the effect of a generation of dams just from each dam based on the water code and then you can give some idea of what the change (inaudible).
(Multiple voices.)

McAllister: I will come up with a number. Just so you know (inaudible), I will come up, we know what the total revenues are; what was that number and I know what the distribution of energy is from each dam so I'll just put the total revenues based on that proportion of energy generated at each dam.

Voice: I've got a summary in my vehicle of how much the total capacity is but not a breakdown annual how much is (inaudible).

Voice: We can come around. Make sure you write that down.

McAllister: Rose, we'll get an answer to that question.

Yellow We're going to get both, right? Both questions, so as we need to know what the

Bird: income for each dam is and also we should know what the impact (inaudible) for each dam is.

McAllister: Well you'll have the impact—that's automatic part of the EIS.

Yellow Okay, we want the incomes too, Roy.

Bird:

McAllister: You are talking revenues and we'll come up with revenues.

Yellow Okay, good! The WAPA guy, he can come up with the income, right?

Bird:

McAllister: They gave this (inaudible) to Williams.

Yellow Great.

Bird:

Voices: (Multiple voices.)

McAllister: That's what Nick's saying is he knows how much revenue is generated based on energy produced; I'll use that number. That's how I'll get it.

Yellow We have a question over here.

Bird:

McAllister: I'll put the total buy; how much is the average annual generated by each dam. So 50% comes out (inaudible); 20% comes out of Garrison; 20% of revenue Garrison.

Voice: Average of those?

McAllister: Average!

Voice: I have a question about the workshops. Is that the only time that you will ask these individual questions and get individual answers for it? Will there be like a (inaudible) thing get to the Omaha office or somewhere to (inaudible) questions?

Hargrave: However you want us to do it for you. I mean that's what I guess I'm saying. We're open to it. We can either have like the times of the workshops; we can have side meeting or we could send folks out to talk to you at a separate meeting or take time at the workshops. Any way that you feel is best for us to get that information from you.

Voice: Well, I guess one of the recommendations that I'd be making is that you visit with each individual tribe.

Hargrave: Right.

Voice: Not just having workshops set up and testimony taken.

McAllister: I think that offer has already been made. We sent out letters saying that we are willing to sit down and visit with each tribe on the Master Manual and that will continue as part consultation process. At least we will be trying to fulfill our responsibilities on that.

Voice: Is that (inaudible)? Are you going to be attending the consultation meeting or is this just (inaudible)?

McAllister: We can.

Voice: Okay.

McAllister: Yeah, this specific needs identify the (inaudible) we have wherever we need at those meetings.

We've got a plan of say ten people and (inaudible) ten people on there. Meet with you and talk with you about and try to answer your specific needs.

Yellow Bird: Yeah, I think we should be involved; we have these tribe meetings to give you a report and meet all together. Because there are lots of issues that affect us all. I think we should do both. And hopefully the Corps is budgeted for that.

McAllister: The EIS cannot sit down and go into that type of detail on nation-by-nation basis; that's why (inaudible) get face-to-face, talk about it and if there is some sort of (inaudible) things we can do to help you, we'll do that too. That's our responsibility. We'll fulfill our responsibility.

Sometimes it takes me, my brain doesn't always synapse perfectly. It takes me a while to figure out but frankly, I'll try to figure out a way to get an answer to *every question* I can. That's part of my responsibility as Technical Coordinator. I've worked on the site for twelve years; I know how the models work. My biggest problem is I lost my number one modeler; he retired on my birthday two weeks ago. Talk about impacts—ho,ho! But we'll figure out a way to get answers for you. In fact, I enjoy those challenges. So we'll get them.

Yellow So are we going to get to the tribes so that you can explain each one of those and
Bird: what the numbers mean so that the tribes can go home and read this document and
 then have an opportunity to interact with the Corps when we have those meetings?

McAllister: That's the purpose of this presentation.

Yellow Okay.

Bird:

McAllister: How many really want to understand how each one of these resources is
 generated? Let's just go through these...there's four slides here that talk about
 how they generate and then we'll get right down to the numbers you'd like to look
 at.

Water supply—we look at what the cost would be for example when the lakes are
drawn down and if you to do additional maintenance on your intake; if you have to

move your intake because it's not low enough for the reservoir. Those type of costs are thrown into the water supply model and somehow or another there's a way determining what the benefits are and I'm not sure what that basis is but again I can always find out the question, if you really want to know. Because we look at what the impacts are on a year-by-year basis and then we come up with an average annual value—the average annual values are what's shown on the bar graphs in the Summary. All these, everyone of these resources, when you want to know what the average impact is over 100 years that's what the number is in the Summary—the bar graphs.

Recreation—we look at the value of recreation visitation and there are a lot of different ways to compute what the value of a visitor day is or visitor hour is at various facilities. We use what's called a Travel Cost Methodology, which is how much does it really cost to go out and participate in that type recreation. It gets rather complex and again that's something that we would sit down and talk; we'd have economist to help us answer that question but basically look at, for example, the type of visitation that occurs on Lake Oahe. Let's just use that for an example. You may have—well, you do have fishing, picnicking, you have water skiing; you have boating; you have a wide array of recreation uses that go into that and people are willing to pay more for different types of recreation value to fish (so much fish per day). The value to picnic is so much a visitor day; it would be less to picnic than it would be to go fishing. To go boating would be higher yet and you take all these different values on a use-by-use basis and you come up with an average

value per visitor day for each lake. So each lake has its unique number for what a value visitor day is and then we look at how many visitor days or visitor hours or whatever occurred in 1990 and we then look at what happens as the lake levels go up and down. As you well know that when the lakes went down in the drought that went from 1987 to 1993 that fewer people went to the lakes potentially because they couldn't enjoy the type of recreation they wanted to enjoy. They used their well-earned dollars instead of going to Lake Sakakawea well then they went to Devils Lake or they may have decided to take an ocean cruise or may have decided to go skiing in Colorado. They used their recreation money in some other way.

So the value of recreation went down during the drought. We tried to capture how that recreation use would have changed the droughts and in turn we know what the unit value is of those visitor days and so we come up with a value for recreation visitation during every year of the period of record for each lake. We combine the values for the lakes; we know what type of recreation occurs on the river reaches; we combine that into the number and come up with total number and again average in the numbers within the Summary. When you look at the RDEIS itself that breakdown will be made among each one of the reservoirs. Each one of the river reaches and so you can go in and look at how your specific reach of the river will be impacted and that's frankly how we got numbers that on a tribe or reservation-by-reservation basis.

Environmental resources—and these do not come out in terms of dollars. These come out in terms of some unit that seems to apply or some unitless number that at least allows us to again, we are trying to understand relative differences—it's the difference in that resource value going to be *big* or is it going to be *small* as we go from one alternative to the next.

So young fish production, when that value was determined the methodology that was determined back in the early '70s we met with each one of the fisheries agencies and each one of the three states, actually four states, that affected, because Nebraska has fishery, (inaudible), and Gavins Point Dam on Lewis and Clark Lake. (Inaudible) they had data over the years of what type of, how many, Yellow Perch or how many of the young year there in their lake that first year. They go out and take samples so we have numbers. They knew how many Walleyes were in the lake, younger year Walleye. How many Smelt? Whatever the various fishes they do surveys on; they put fishnets out there and capture the fish and count them so they have numbers for different types of younger year fish in their lakes. So we looked at different hydrological factors like: how much does the lake level change between May and September; how many million acre-feet of water went through that lake during that period; what was the flow through the lake in May versus the flow through the lake in September? We looked at different hydrologic parameters like that; we put them into equations and let the computer come up regression equations through that data. In other words, they knew what the data was and the computer comes up with an equation; draws it

through that data set and its best fit on that data with those parameters in there comes up with the various co-efficients. And then these biologists would sit down and say look at that equation. Do I really believe that the lake level change between May and September is a factor? Okay, I believe that. Now do I believe in the *negative* factor; the equation said it's a negative; they said no it's a *positive* factor. That equation is thrown out and keep trying different equations until you come up with number one (inaudible) what you think are the primary factors that affect your fish in your lake but secondly, the plus or minus sign in front of the coefficient for that parameter is going in the right direction. You don't want to have an equation that doesn't make sense.

Once you come up with these equations, that tells you how well you correlated with that data so you can say—good correlation so you say let's use that equation and you come up with what's called an index. When you go through the computation process and put that equation into a log function, I believe it is. I took a lot of math and I don't understand what the means but they put them in equations that end up coming up with a number for each one of the lakes and each year. The .4 or .5 or .3, but anyway it gives you a number for how well the young year fish production was in that lake. The higher the number the better the fish production in that lake that year. The lower the number the poorer the fish production. So then you sum up of the numbers for each of the six lakes in the system and you come up with a total index value and that total index value is going to be around 2.00. So again when you look at the Summary the number that

is presented in there ranges from 2.00 to 2.12, I believe. The range that covers in there. So the index is 2.12 it's going to be better than the one that was 2.00. Now how much better that is, that's for you to judge. You can go back and say well, my lake, I hope it went positive. (Noise) Wouldn't have the lake reach data. Lake shows that if you are on Lake Oahe and show you went from .55 to .52; well that was bad even though the total index went from .2 to 2.12 so. So EIS has more data than the average annual. The average annual is the total for all six lakes combined. The EIS breaks it down lake-by-lake.

So if we can answer questions about by Tex and Pemina have identified. How is my lake affected? That's how we get the tribal impacts for your reservation because we know what happens on Lake Sakakawea, for example, or what happens on Lake Oahe or what happens on Lake Sharpe.

Coldwater Reservoir Fish Habitat— we have models that identifies how much of the volume of water in that lake is colder than a certain temperature; how much water in that lake has dissolved oxygen content above a certain level; both of those are important factors for the coldwater fish that inhabit that lake—salmon, the lake trout's—they have to have certain requirements of that. So we can identify on a month-by-month basis how much of that coldwater habitat is available in each one of the lakes. Knowing what the lake level is; what the inflows of that lake was and what the out-flows of that lake was or were or however you want to say it. Consequently we can identify coldwater habitat on a year-by-year basis and it's in

terms of the volume or million acre-feet of water in that lake that meets the coldwater requirements for the fish.

Next we have Coldwater and Warmwater Fish Habitat models—they are both the same model; it's just that one looks at how miles of river downstream from, well, coldwater looks at downstream from Fort Peck Dam and downstream from Garrison Dam. Those are the two reaches that have coldwater habitat. How many miles of it meets a certain criteria in the spring through fall period and I believe it's the month of April through September and the other one is May through September or April through October. It's two different periods for the cold and warm water. The warmwater fish have to have a temperature to be *above* a certain level and coldwater fish have to have a temperature *below* a certain level and each one of those miles of river for coldwater habitat or miles of river for warmwater habitat.

So we compute those miles on a year-by-year basis; it's one number for the year and if you look at the minimum amount of habitat there was in that year. Take the minimum amount of habitat in that spring through fall period and that's the number that is reported for 1933. We do it again for 1934 and so forth. You add them all up and divide it by 100 and come up with number that's in the Summary in front of you.

River Fish Physical Habitat—that's where we look typically at the fish—they are

called native river fish—there were the species that was in the river before the dams were built and before people introduced other species that they wanted to fish for. And we knew that historically those fish had certain what they call niches—places they like to hangout in the river. They either like shallow water habitat, slow-moving summer; they like to feed; fast-running habitat in the spring. So we knew that somewhere in the river there were niches that they all liked historically. So then we said well, we know what the river was like in terms of the velocity of flow, depth of water that way we can look at what was the distribution of the velocity across the channel. What was the distribution of the depth across the channel? Knowing those two parameters historically we can then say let's take today's cross sections that are out there; so we went out and took the cross sections today and we ran hydraulic models to them; it told us that it was a discharge of 15-kcfs—here's what the depth distribution was across that channel and what the velocity distribution was across that channel at that point in time. So how well did today's velocity or depth distribution match up with what was there historically. We compare the two; if they match-up real well in every...in various months of the year then you get a high value. A high value—a perfect value is 1.0. The closer you are to 1, that's a high value. If it didn't match up very well, then you have a lower value or .2 or .4 or .1 it didn't correlate very well. So you went through and looked at each month for the period of record; how well did we match up with what was there historically in January; what was there historically in February. We make a minor changes of the model in that we said that in April, May and June because historically we have these high flows; historically these

high flows got out of the river bank and flooded land and that was good. It flushed the (inaudible) and organic material into the river and it made the river more active biologically; a lot more biota in river and the fish flourished at that point in time. Instead of following this criteria of comparing the depth and velocity distribution on a month-by-month basis in April, May and June because we actually have flood flows in April. We have to have flood flows in May; we have to have flood flows in June and how close do we come to those flood flows? Do we come real close to them, like .9 or were we a long ways from flood flows and like a .4?

What we did then next we went through and counted up all the .4s and .9s and .8s across the year and came up with a number for the year. You had a perfect match all year long and you get a 12.0. A value of 1 in each month times 12 months is 12.0. You have 4 match you may come up with a 6.0 or only half as good as a 4.0. Then we went through and we summed up all the values for all the years and took an average annual of value and that result was 4 and then we had nine reaches we did this on and so the net results looking in your Summary here but I think it was probably somewhere around an 8, 9 or 10 for physical habitat. No the numbers, there's 8, 9 or 10 when we had nine reaches and you multiple times...you add up all the reach and come up with a number around 83 and that's what is in there. A perfect number—there's nine reaches—the perfect 12 was in 180. You can see that if we were going on 83 we didn't come anywhere close to 180 perfect value. But then we ran what is called the run-of-river (ROR) (inaudible) river system flows, are they cold? They are not controlled by the dams—that's called run-of-

river (ROR) and whatever comes in runs down the river; no one is controlling that flow. You run a river through the day's cross sections which aren't the same as they were historically, you will find that you *don't* get a perfect match. There were not flood flows every April, May and June historically. It only happened every three years or two out of three or two out of five and so you didn't have flood flows every year.

The best value you can come up with when you add up all nine reaches for the average annual value for each reach was, I think, a 90.3. That's the ROR number on physical habitat – page 20. When we look at that values range from 81.5 up to 82.4 for various alternatives. So we can improve it from an 81.5 to 82.5. Run-of-river was 90.5; so you can still see we are a long ways from the 90.5 but at least you get a feel for how much did you move toward what...you completely un-control of the flows; how close did you come to controlling the flows and that gives an idea of how much you have to control on the system you have to take away to post 90.

These other three down...

(End of Tape 4)

Tape # 5

September 13, 2001 P.M., Roy McAllister – Corps of Engineers

McAllister: In May and June, how many acres did we flood for two days; how many acres did we flood for four days? And we identified how well we did then on the Lower River and we looked at low-lying land because basically we don't flood land today downstream from the system, by the operations of the system. So we looked at all these low-lying lands, the Old Oxwell Lakes and how many acres of those did we flood for 2, 4, 6, 8, 10 days. Each year we kept track of that (inaudible). The reason you do that is you want to know how long did you flush the (inaudible) from these over bank flows; how often do you flush the (inaudible) in the springtime to get into the river and get into the shallow water areas to provide the habitat for the biota.

Next we looked at what happens in the summer. Historically there were low summer flows, so how much shallow water habitat did we create? That was the habitat that was basically less than 5 feet deep and loss is less than 2.5 feet per second. We had taken these cross sections up here for this analysis so we had cross sections to look at for the months of June, July and August and so we looked at, for shallow water habitat, the numbers that were presented in the Summary are those that occurred at the mid-July to mid-August. Remember that graph we showed where the summer flows drop down to the lowest value in mid-July and stayed there until mid-August then went back up in that little Gavins Point diagram we looked at? So we looked at that middle of July to middle of August

timeframe. We see how much shallow water habitat is there.

We also looked at what type of spawning cue occur in the spring and the USGS provided one way of looking at it so the Service asked us to look at it. Fish and Wildlife Service asked that we look at what how often do we have a 20% increase in flow over a span of 3 days. Increased 20% in 1 day or 20% in 2 days or 20% in 3 days. How often does that occur historically? And then we said how long do we hold that increase in flow? We counted the number of days that we held that increase and that day is reported in the Summary and in the EIS.

As we look at the data this is looking at summer and this is looking spring so we found that in springtime the real reason you release the fish and the real reason you have the spring rise is to provide spawning cue and the Service agrees with us on that or we agree with the Service on that. Primary reason we put out the spring rise is to create a spawning cue. The question is to be what spawning cue do the fish want? And that's a question we don't have the answer to. Again, as Mike indicated, you go through adaptive management to learn that. You learn from spring rises; monitor those spring rises and in turn identify how successful the spawn that you had that year. If you had a successful spawn, a certain type of cue, in other words, you have a rise of so much for so many days. That gives you an idea what might be the fish requirements.

We come right out saying in the EIS, the reason you put out a spring rise is to

create a spawning cue for fish.

Now one more I don't have on here and I forgot it last night and I worked on these until one o'clock in the morning and I just was not functioning at 100% at one o'clock in the morning. I forgot to put on Tern and Plover Habitat and I apologize, Roger and Mike.

Tern and Plover Habitats—we looked at what islands were out there in 1991 timeframe. What was the size of those islands? And in turn, (I also don't have wetlands on here; gees, I forgot a bunch of them) we looked at what type of vegetation was on those islands and what changes of the water levels affects, first of all, how big the island is. If the water level is up the island gets smaller; if the water level is down the island gets bigger. As the water goes down, vegetation grows on that island. Longer you hold the water down the more vegetation grows on that island. But if you come out with flows and run water over top of that island you (inaudible) vegetation off the island. The model goes through and tracks how big the island is growing and shrinking and is there vegetation on it or is there not vegetation on it and it identifies how much acres on the islands that we surveyed back in 1991. How much is available for tern and plover habitat each year? Because terns and plovers do not like to have a lot of vegetation in those areas they build their nest—scratch their nest in the sands.

Also have the wetland models on here, well, for tern and plover we count the

number of acres that are available in each one of the river reaches we modeled down below Garrison, below Fort Peck, below Fort Randall Dam and below Gavins Point Dam. Your Summary and that's our number we did each year and we in turn summed them up over the years and divided by 100 again to come up with an average annual value.

Wetland Habitat—we went out and surveyed 42 acres or 42 sites, I think the number was 100s of thousands of acres is what we surveyed and we looked at what type of vegetation was there in 1991, 1992 when we did the surveys. They went on delta sites; they went on delta by the Cheyenne River; went on delta by the Morrow River; they went on the delta by, I think, by the Little Missouri arm; they did it at the headwaters of Lake Oahe; the headwaters of Fort Peck Lake. So we picked 42 sites along the lakes and river reaches to survey and identify what type of habitat was there. What type of vegetation was growing in 1991? What was the lake level in 1991? What was the river level adjacent to that site in 1991?

Then we developed rules for if the water comes up and that part of that site has one foot of water on it, what type of vegetation grows in that one foot of water on it. Cattails, what type of vegetation is that? Or if the water level drops and the cattails all die and all of a sudden trees start growing in there; so we have shrubs growing in there. So what type of vegetation would grow if the water levels dropped? We tracked how vegetation changed with time. Then there's a system of (inaudible) called (inaudible) system; I just thought (inaudible) until I was told

by a biologist (inaudible) system. That breaks these different classes of vegetation into different categories and certain categories are classified as wetland habitat and some are classified as riparian habitat. In fact, wetland and riparian habitat.

Yellow Do you have any data for the plants that no longer grown because they were
Bird: flooded out too?

McAllister: No, I don't.

Yellow Does the Army Corps?

Bird:

Hargrave: Not that I'm aware of.

Yellow Okay, so may I make a request for information from your biologist, plant scientist

Bird: (noise) or data regarding the plants and shrubs and trees that no longer grow there because of the flooding?

Voice: The glacier there.

McAllister: I think you can kind of gather what that data was.

Yellow I'm asking you guys to do it.

Bird:

McAllister: Yeah, what I'm saying is the only way I know we could approach it right now is we would look at what type of vegetation is in the area, the headwaters of that and the river reach of that...

Yellow Exactly. We are going to need that before our consultation with the Army Corps.

Bird:

McAllister: We can come up with some of those.

Yellow And can you get that information for all the tribes?

Bird:

McAllister: Now when you say "type of vegetation" plants and stuff, I'm not sure.

Yellow We need a list of plants and vegetation that grew along the Missouri River prior to

Bird: the Corps destroying the Missouri River with the dam that no longer can grow there. That can't be found anymore.

McAllister: That will be in Section 4.

Yellow Just like you guys came up with endangered species; we need to know that same

Bird: thing about the plants. Okay. Education...

McAllister: We can come up with a list of those types of plants.

Yellow That's what we need. Thank you.

Bird:

McAllister: So anyway back to riparian and wetlands habitat and come up millions, thousands or millions of acres (inaudible), I think it's thousands of acres of wetland habitat that we monitored or we actually surveyed only thousands of acres. I think we did tens of thousands of acres surveyed. We took cross sections too. Sandbars and various wetland areas...what the elevations were across those sandbars.

Last and definitely not least—Historic Properties. We really wrestled with how to approach this when we started to study and tried to computerize it in 1991 and we finally decided that the thing that was probably most devastating to a site is to have the site eroded away. We said what caused the erosion and, of course, it's the wave action beating against the shore line and so we said well, let's just track the number of times there is a hit or there is water leading up against that shoreline potentially. So we looked at an eight-foot band of impact and any sites that were within that eight-foot band would be impacted or would get a *hit* that month from water. Because sometime during that month the winds are going to pick and the waves are going to beat against the shoreline and they are going to adversely affect that site sometime during the month. So again remember our models are monthly time set model.

Voice: How big were your waves?

McAllister: Wasn't necessarily the wave but we looked at an eight-foot band and (inaudible) we looked at assume the water was right at five-foot above the lake surface. It should also affect three-foot below the lake surface; so that wave does have an impact (inaudible) just not at the top of the wave. It affects a wider band. Either three or five-foot above and three or five-foot below and I have to look it up every time. It's something I don't remember off the top of my head.

Yellow Did you try it in different soil types?

Bird:

McAllister: No, we did not. We just counted the number of hits.

Yellow Did you (inaudible) freeze up and thaw?

Bird:

McAllister: No.

Yellow Well, we're not going to go in and do that anymore. We're not going (inaudible)

Bird: that.

McAllister: We don't say whether or not the site eventually gets eroded away. Okay, all we say is how often is that site *hit*.

Yellow Well, we (inaudible) want that because it's not just the wave action that's causing

Bird: the problem; it's wave action; it's freeze up and it's thaw; it's the different types of

soil that are there along the shorelines. It's impacted by, (inaudible) being out here, landscape farms, (inaudible) recreational. There are all kinds of (inaudible) hitting sites.

McAllister: You have to remember what our objective is, was to identify how the lake level is potentially impacting that site and so if the lake level is adjacent to that site there may be waves coming across and hitting that site. Now you understand there are other factors. We didn't identify is the site lost after 10 years; is the site lost after 50 years. We just said over 100 years you are going to have a certain number of hits on that site. The higher the number of hits, the greater the likelihood that that site might be lost. That's all we can say.

Just like the terns and plovers we don't identify whether it will be more terns or less terns; we just say there's more habitat for those terns. Same way with (inaudible), we say (inaudible) could be better or worse; we don't say whether there will be more or less fish out there. Spawning cue, we said spawning cue occurs more often or it doesn't occur as often or we don't say well there'll be more fish.

So we find a way to relate the lake level or river flow change to some factor that is important in terms of that resource or use.

Yellow Well, let's hope that your initial analysis of what's oppressing our sites doesn't

Bird: make the Corps come out sounding pretty good, you know.

McAllister: It doesn't.

Yellow Because I'll tell you what, there's a heck of a lot more that the Corps is doing that

Bird: is affecting our sites besides just the lake level and I really take the attitude
(inaudible) to make it look like there's not really much of a problem.

McAllister: No, it shows that there are lots of hits. What we had to do, we wanted to show that an increase in the historic property value was good and a decrease was bad. Well, the higher the number of hits is bad! So we then indexed the value. Basically we just took the number of hits that would occur and took a number that we used was larger and subtracted the number of hits from that. So it was always a positive number out there. But all the alternatives hurt the known sites.

Yellow There's the undiscovered sites too.

Bird:

McAllister: Well, that part we don't know because if you don't know where a site is, you don't know when you are impacting it. That's one thing we say in the EIS is that we may be adversely affecting the *known* sites and we feel the more we impact the known sites potentially we are impacting the unknown sites *less*. There's no way of knowing because you don't know those unknown sites. You don't know where they are and how badly you are impacting them. If it's an unknown...

Voice: What kind of logic is that?

Yellow Really! Not only that but there has been lots of archaeologists who have lots of

Bird: experience (inaudible) working on (inaudible), every last one of the m will tell you that for every site that's known there are five or six times more. How can you say that they are going to be impacted less; I don't get it?

McAllister: Well, depends on what your assumption is. If your assumption is that if the sites, you know where the site is and it's down below this eight-foot zone. The reason why you don't know where the site is potentially is that it's under the water somewhere and you didn't survey it before you put the lake...

Yellow Oh, no, no. (Inaudible.) What I'm talking about are sites five to six times more

Bird: than what the Corps thinks...

McAllister: In other words, surveys...

Yellow And they are along the water.

Bird:

McAllister: Again the thing to understand is that we are trying to understand relative differences. We don't identify the number of hits. We want you to understand that if the number goes down that we present in the EIS that we are adversely

affecting known sites and that if what you say is for every known sites there are five unknown sites; we are also adversely affecting those five unknown sites too. That are above in the same elevation band as the known sites. Because we look at it in terms of elevation bands because the lakes are flat basically. They are not perfectly but they assumed to be flat. So when that eight-foot band or that eight-foot depth that we are looking at affecting an eight-foot elevation band on that lake. That eight-foot elevation band you know the number of known sites that are within that band, at least you know the number of both *known* sites that are in that band and if we say there are 50 sites within that band around the whole lake that are being impacted then we are hitting those 8 sights if that eight-foot band is hitting those 50 sites within that eight-foot difference in elevation.

And if we have 50 know sites that means, from what you are saying, Pemina, that there are probably 120 sites there.

Yellow Easy, that's not even counting (inaudible).

Bird:

McAllister: If we are impacting those 50 sites less or more then we are impacting those 120 sites less or more. That's all you have to gather from that. We are not saying we are going to erode 20 sites away this year or they are going to be lost or much like two years ago, not this year but last year, one year ago when our batch washed into the lake and exposed for people to come and pick out and so forth. We can't predict when that will happen. So all we can do is say that the lake is up there

where it's affecting those type of sites more often or less—all we can do.

Yellow Oh, it can be predicted, every spring, every spring and all summer it'll happen.

Bird: That's when not maybe to a point like (inaudible) but every spring and all summer until it freezes up again and even then there'll be exposure. But I don't see the value of knowing how many hits or (inaudible)...

McAllister: We've heard that comment a lot.

Yellow I don't see the value. I'll tell you all the lakes; all the water when it raises and

Bird: lowers and when it freezes and thaws it erodes the (inaudible) and the (inaudible) collapses; we loose sites and exposed materials. So what's the possibility you could look at the impact in a different way? (Inaudible) the impact in a different way because...

McAllister: Let me tell you what the guidelines for writing the Environment Impact Statement are. That is you write the impacts using the best available information. That's the first thing we take into account.

Secondly, what the Corps has done in this study is we were saying the best available information isn't good enough. We came out and said that right up front. Because we need to get better information, so we spent the first couple or three years getting better information. We developed these models. They didn't even

exist. We spent millions of dollars acquiring data, developing models. We made sure that the historic properties database was updated. We made sure that we got that data. Then is, Pemina, what you are saying is that that database wasn't completely updated because all the information wasn't in it.

Yellow It's not even *done*.

Bird:

McAllister: Yeah, I know. I understand. All I can do as the technical person is use whatever information I *have* available.

Yellow That's available information. Spent millions of dollars developing models.

Bird:

McAllister: So then in turn we developed these models and we got the results we got in 1993, 1994. We put out these EISs and each time someone says well, you need more information so in some cases we got that information; other cases we didn't get it.

We looked at what timeframe we were looking that we needed to complete the analysis under; we looked at how much it would cost to get the information and we made conscious decisions to get the additional information, take the additional time when our schedule would allow and when our funding sources would allow us to do that. Like I say, we didn't do everything that we were asked to do. For example, interior drainage, someone wanted to know what the interior drainage impacts are on the Lower River. All Lower River...we can't begin to do that. We

picked six representative sites and learn all we could about those six sites; learn all we could about historic properties on those known sites.

Ground water—again, people wanted to know what happened with ground water all the way from Sioux City to the mouth, I said we can't do that. That's too big of an undertaking. Costs too much; takes too much time so we picked a total of 4 representative sites; we started out with 5 but ended up with 4 representative sites. We learned all we could about those 4 sites. You try to find some basis on which to increase your understanding of a potential impact within certain reasonable constraints of what you can get done within a timeframe and the funds (inaudible). We increased the amount of available information in a lot of areas but not in all areas.

The next thing I'm going to say is that if there's an analysis that is not correct; it's okay to say it's not correct but you can't throw it out and not use it unless you can come back with a better way to do the analysis. That's a legitimate comment; come back and say you should have taken such and such into account and done the analysis this way. Not say the analysis is bad.

Yellow Is somebody saying that?

Bird:

McAllister: Some cases they are. (Multiple voices.) (Inaudible.)

There are lots and lots and lots of them out there.

Voice: This is only a small...

McAllister: Some will say to us, I live in school district number one in Fremont County, Iowa and you are going to affect my tax base because you are going to make another 50 acres of land that's not suitable or you affected the valuation on all the land along the river of my county by putting spring rise out. Your EIS is inadequate unless you can identify how many tax dollars I will lose for my school district. And there are literally thousands of school districts out there and that's one analysis we didn't do. Because we couldn't begin to capture that number. All we could do is we could say we are impacting this number of acres out there and then... Because this is not an EIS of 10 square mile area. It's an EIS of 3,000 miles of river that is impacting millions and millions and millions of acres and so all we can do with our study is try to understand the major impact to the best of our ability using the best available information within the time constraints we have to work in within the funding that we receive.

Voice: There's a present responsibility that (inaudible) understand. Where are these (inaudible)?

McAllister: Dan, I work with what money people give me and when they tell me I have to have something done.

Voice: Well, that was kind of one of the reasons I was making that point earlier about (inaudible). What is the economics of putting the dams in? What is it 23% of the acreage, is tribal acreage the whole 6 or 7 dams that go through; what percentage of the budget was (inaudible) and all that. There's not, you've got all this money that you got, we get just a little slice of the pie. I think that what tribes (inaudible). We are providing this for America and the United States and we took the hit; we provided all this power and energy and the recreation and navigation for America and we are 23% of that but what is the percentage of the pie, budget (inaudible). And I want to look at that; I want to focus on it—at some point in time.

McAllister: And that's a legitimate...there are a lot of ways I think that the information coming out of this Environmental Impact Statement that can be used in the future. And that's one of the things I can say as an individual, if I have any latency at all, at least we've started down the road of better understanding the impact of a system and be able to start getting at the answers that you want. We may not be able to fully get *all* the answers but we are moving in that direction and we are a *lot* further along than we were ten years ago in understanding this system and what its impacts are.

I've still got a few years to go before I retire and I've got to find something to keep myself busy so.

Yellow While that may be true (inaudible) it's still not enough to protect the tribes
Bird: (inaudible). We need information; you're right the info coming out of this EIS is something that can be used by our tribes for a while to come.

McAllister: And we hope it is. (Multiple voices)

Yellow We need other info to be brought to bear on your model because it's not going to
Bird: nearly come close to the truth of the impacts that we have endured on our sites. We are not going to get the answers that are clear enough to show what has happened.

Johns: But, you know, I think that if we look at it from this staff-wise that we have reached a path equation that everybody agrees to—(inaudible) prevention. We can...

Yellow (Inaudible) that equation, Mary Lee..
Bird:

Johns: Well, I'm just saying that if we can come to an agreement on an equation so that there's a benchmark, say 2001, we all have agreed to this equation. This analysis, so therefore this benchmark is going to be from in the future, say five years, ten years, we have something we all agree to. The Corps has to agree to it; the tribes has to agree to it so that in five years with more serious impacts on tribal lands

(inaudible) you know (inaudible) where the (inaudible). Then we have an agreed data that we can then go back then and reassess the damage. That's why if we can agree; like we can disagree about a lot of different things; if we can agree on a scientific equation; maybe it might not be the best for us; maybe it might not be the best for Corps. But if we can come to some kind of a compromise out of (inaudible). Say this is what we are going to agree to; this is the equation we are going to use and from then on we will then assess the damages done to our property based upon...

Yellow The problem with that is we've been waiting for a formula/equation that
Bird: adequately and correctly reflects the losses of the tribes (inaudible); we don't have
the luxury of time to wait five years.

Voice: Well I'm just saying...I just used five years as a...

Yellow No, we just don't. We are trying to (multiple voices).
Bird:

Voice: Where are we now in the plan; where are we now.

Yellow This is the Master Manual plan and we waited a long time like everybody else for
Bird: this to come out. We need accurate data *now*. Our sites are falling into the river
now.

Voice: Right now, right now we don't have anything that we agree to.

Voice: Something cold by the time the public meeting is held. Go around to each of our locations? Is that possible?

McAllister: Proposed for...?

Voice: Well, on this formula (inaudible) 10 or 20% of what could be a comprehensive formula. (Inaudible) for the impact for cultural and historic properties (inaudible).

McAllister: There are people that are more knowledgeable about this than I am have talked about the need to—what can be done to improve this and they have not brought anything forth yet.

Yellow Bird: Maybe it is because nobody has asked for any, you know, expanded data. I guess we are asking now.

McAllister: We've asked in a lot of different ways, Pemina. No, we've asked our own people to come up with different ways and no one has come up with a concrete way that this is "better to do things" and maybe it's just because not the right attention is given to it; I don't know what the answer is why it hasn't been done.

But this methodology I developed this methodology myself because no one else was doing anything and we needed a number...

Yellow Bird: Well, I wish you'd talked to us while you were doing that. In fact, with the endangered species there's a comprehensive way to change the impact on the species that live in the river and depend on the water for life, right? There's a comprehensive way to gage all of the impacts. The same approach needs to be taken when it deals with our sites because we are going to get skewed data; we are not going to have the information *we need* to protect what little remains of our sacred and cultural sites in our aboriginal homeland. Okay? And that's what we are saying. I'm sorry the Army Corps spent millions developing these models. I'm sorry all that time was spent but you didn't consult us. Had you consulted us on these models we would have told you what we *need* in order to be...

(End of side 1 of Tape 5)

Yellow Bird: The wind, the sun, tourist, people moving, people driving on our medicines, we would have been able to tell you all those thing. I hear what you are saying but (multiple voices). Don't have the luxury of time anymore.

Voice: Pemina, in Master Manual itself.

Yellow We have to live with that.

Bird:

McAllister: Well, we are not changing the weather; we are not changing (inaudible, noise).

We are not changing because we are changing. (Multiple voices)

Yellow Not asking you to. Accurate data!

Bird:

Johns: Okay, so then could there possibly would it be possible for the tribes to request those entities within the Corps to begin developing this formula along with the tribes input? Is that possible?

McAllister: If the (inaudible) request and (noise) (multiple voices) what's...

Voice: But know that you...

McAllister: The issue gets to be what's (inaudible).

Voice: If you look at it and everyone is in agreement on this basis—a formula, then that's you benchmark and from that point on then you can determine the impact where everybody has agreed to a formula. From that point on then we all would have data that we agreed to.

Voice: Yeah, I would support that. I would say for the record that we should have somebody within the Corps or it wouldn't have to be—Historic Preservation

Officer, is (inaudible) still in there?

Hargrave: No. He's not anymore.

Voice: Or whoever designee is would start looking at developing the whole formula along with the tribes to look at and have something that's added to what you've done here, Roy, by the time we hold these public meetings. I know it's (inaudible).
(Multiple voices)

McAllister: We won't be able to do it. I'll be honest with you. We won't have (inaudible) before the hearings.

Voice: Maybe that's something that could be going on simultaneously.

McAllister: Consultation needs to take place on all four activities. A Master Manual is one of many, many, many Corps activities out there and when the Master Manual is on its track, been on its track... We've had so many different deadlines. This was supposed to be a two-year study. I was supposed to spend two years of career on it; by the time I retire if I'm still on it I will have spent exactly half of my 30-year career almost to the day on this project. It's had all this different deadlines; it's had all these different cost (inaudible); its had (inaudible) of its own. *But it's not the answer to all problems out there.* It's not the source of funding to those; it's not...

Yellow Bird: Right. We understand all that but we are telling you that we have to have certain information that deals with our sacred and cultural sites. Period.

Voice: Master Manual will have an impact.

McAllister: Yeah, when they come out and visit with you about Master Manual we should have, especially if we go on these trips to each one of the tribes, there should be staff from the district attending those meetings and someone sitting down and assessing under what authority or what fashion are we going to address all these different concerns. If the Master Manual concerns, we'll take ownership of it and move out on it. If it's some other area of concern; if it's another Corps area of responsibility *they* need to take ownership of it and move out on it.

Hargrave: I think the other thing we have to kind of recognize is that we don't know certainly all there is to know about cultural sites. Sometimes we talk about this adaptive management thing and we talk about it only in the concepts of the endangered species. It actually applies to a *tremendous* number of resources including cultural resources. One thing I had always hoped would come out of the Master Manual is that if we don't have every impact identified that we at least have processes in place to get through it.

So, for example, I just see this as a tremendous outcome. We do this Annual

Operating Plan (AOP) every year under the Manual we are operating. Well, see now we have these databases; the GIS database and the other database that is under development. Going to be tremendous tools here. We'll be able to look at the sites in that database; look at our annual operations; look at the elevation of those sites and we'll be able to actually determine at some point which sites in that database are most likely to be impacted by our operations that year. And that's going to allow you to get in there and access to identify what the sites are and get in there to actually protect the sites. I guess what I see coming out of the Master Manual, even if we don't know every impact, that we start looking at ways to get at it. One way to get at the impact is through some of the work the district is doing and through our Annual Operating Plan process; marry those two up and I think we are going to have a good look every year so that some of the things that have happened in the past few years...

Yellow Bird: Right, what you are saying is true, Rose. What you are saying is true. There's two new databases being created that will give us information on the...there's some studies going on about what some of the impacts are and we'll be able to gage. One of the things that Randy Behm had initiated in his what—ten months—tenure in his position and oversight to the cultural resources program, because of the internal peer review team that went in and took a look at what the people in that shop weren't doing and how it was affecting our sites this job was created. He was supposed to provide oversight to the cultural resources staff—our sites are falling in the water! Okay. One of the things he got off, in the short ten months

that he was there, he got two initiatives off the ground. One of them was to begin creating an endangered list site or site list, excuse me. That's not completed; that's not completed. That's really what we need, you know. We need that completed sites. The endangered site list needs to be (inaudible) all we got out of it was those materials that we requested yesterday. What are the most endangered sites that you guys know about; what's their status? What's making them endangered? What are you guys doing about it? All of that is true; all of that is true. Down the road we'll be able to use that data to force the Corps to fulfill its fiduciary responsibility and do bank or shoreline stabilization. Yes?

Right now today we are having an orientation meeting about your EIS and we are trying to tell you what we need before we can begin formal consultation with the Corps on the EIS. And what we *need* is a different model that's going to assess the impact to our sites so that we can come back to the Corps in consultation regarding the Master Manual that we all have to live with. Right? That's what we trying to tell you today. Today we need a different model that's going to assess *all* the impact to our sites. The same way all the impacts to the (inaudible) terns were assessed. All the known impact to the pallid sturgeon. Those were all affected, many (inaudible). Here we are talking about one impact. Wave action, okay. That's not going to give us the kind of data that we need to get the kind of shoreline stabilization Chamberlain, South Dakota has. Okay? Or Bismarck, all these non-native communities that are in perfect safety. Their shorelines stabilized or all of the cultural sites that are *not* associated with native people have bank

stabilization. Okay? That's what we are asking. That's what we need and we need it and we need it today, Rose. We are not trying to be rude here; not trying to be disrespectful; we are telling you what we *need*. Okay? In no uncertain terms.

Johns: In the office of Randy (inaudible), when Randy was in (inaudible) they are working on the computer models that identify all the sites on the computer and there is a...she's an archaeologist and she's on a daily basis all day long putting in the information so that we will, the Corps will have that information and it's based upon the Annual Operating Plan based upon the formula that people come and had agreed on it. Then we will have the data to be able to identify how much impact each sites will have.

Yellow Bird: I know I met Teresa over 18 months ago and at that point and subsequently several times since on behalf of tribe, *all* our tribes, I requested that data as it was completed and just yesterday Becky Otto told me no we couldn't have it until there was a final copy. So I called up (inaudible) report—she's mailing to all our tribes. What's been completed so far? You see this is all part the frustration you are hearing is that we made repeated requests for that. I met Teresa a long time ago. We never...

Johns: The whole point is, I think that if we can work towards solving these problems.

Yellow That's what we are trying to do, Mary Lee.

Bird:

Johns: Well, I get this feeling that...I'm from Cheyenne River and everybody has problems but it's not going to help us as tribal people to talk to people that have no control over that audit. Rose, and I'm sorry I can't remember.

McAllister: Roy.

Johns: Roy, who is in control of that audit? People that should be if Becky was sitting here or if Candy was sitting here then that...

Voice: For the record I think we are stating we need (inaudible).

Johns: Okay. (Multiple voices, inaudible)

Voice: Targeting Rose or what we are stating for the record. Also for the record back to the wildlife, repeat that this history (inaudible) technology (inaudible) computers can tell us these endangered sites and the impacts (inaudible). Even in an aspect of 100 years or 50 years at least of the Corps records there should be the record of how much erosion and how much sites have been exposed, we should be able to use that information, put it through technology and come up with some kind of a model that I think would be...that will show us the kind of budgetary concerns that the tribes have along the river. (Multiple voices)

Johns: See if we work together on that.

Voice: It looks like there hasn't been a focus within the Corps to provide that. Then I think...

Johns: See that's what I say.

Voice: I think Roy is saying that. (Multiple voices)

Yellow Bird: I'm sorry, I'm really sorry for standing up bringing my intelligence into this.

Bird:

Johns: Excuse me, please. Like I said I'm a member of the Cheyenne River Tribe. I have been working with tribal government trying to help tribes and government entities work together to come to a point where *tribes* are best served. That's what I do best. I'm an old chief; I have 4 grandchildren; I have spent 30 years of my life working to help tribes. I have a whole history from the time my great-great-great-great-grandfather we have been working to help tribes. And all I'm asking is that we come together and that we develop a process in which tribes are best served by an entity that is there willing to serve the tribes. That's all...that's what I'm asking. And granted I haven't worked for the Corps as long as individuals have but I am in that office and if Chairman Hall asks me to follow-up on something I will guarantee you, Chairman Hall, that I will follow-up on that. And that's all

I'm asking right now is that we come...the whole important purpose of this meeting, Tex, was at Rapid City. What we said at Rapid City, if you recall that meeting, is that we were going to come here and we were going to learn as much as we could on how we can impact the Master Manual. So right now it's a learning process; at least that was from our viewpoint. That this was going to be a learning process for the tribes on how the data that is being presented in the EIS—how we can best respond to it so that if there is changes, there are needed changes, that the Corps can then respond to us then that's where we need to be. And this data that they are providing to us, I think it's vital to the Santee Sioux Tribe, to the Cheyenne River Sioux Tribe and to the Royal Pheasant Sioux Tribe, to Fort Belknap and to Fort Peck.

So that's why I believed that we were here. Maybe I'm wrong; maybe I have come up with a different scenario for this meeting. It's not that I think that I need to be informed maybe we are off on a different path.

Hargrave: Right, just maybe this would be a good time to take a break, *but* (laughter) I gather what I am hearing is loud and clear. I guess what I am hearing, Chairman Hall, is that based on what you've heard today you don't think the cultural resources analysis is adequate. That's a perfectly legitimate comment for the tribes to make.

Voice: I have a question before we take a break. You are the ones that came up with, Roy, (inaudible) from Cheyenne River. You are the one that came up with this

one analysis of a wave action hits in that?

McAllister: Yeah, I did, I sat and visited with...we had an in-house archaeologist that we were using at that time. He and I sat down and (inaudible) come up with a methodology for the project.

One thing that we heard over and over again that two or three of us engineers that work on this and a couple or three comments of his it is difficult to get people to quantify things. We needed to get away from this plus, plus, minus, minus mentality in the EIS and come up with ways of (inaudible) numbers. That was my objective all along; I tried working with archaeologists.

Voice: I've got a, I think it's a question—maybe more of a statement.

It's basically this. You were doing the cultural resources. Did you or anybody in the group that you worked with think to get on the telephone, contact my office, contact Fremont's office, contact any of the tribal offices for any type of information that you could have inputted into this, maybe not this particular analysis or hypothesis but to something else. Because what I see here or heard here was some very valid points and again I feel like our tribes have been frozen out of your analysis simply because you did not contact us. My buddy over there looked at me when you were talking about when brought up about what types of species and stuff or vegetation, plant life, things like that aren't there anymore.

On Cheyenne River I can tell you *exactly* what's not there anymore. And we hold this information and you are not calling in and saying can you contribute something to this. We are trying to work on this impact; this hypothetical impact—it's not hypothetical anymore it's a natural impact. Could you give us some type of an idea what you've seen?

You haven't contacted my office; I can only speak for my office but on the other thing I wanted to say is any *non-Indian* landowners that live on that river. I live on that river right above highway 212 bridge. Every day I've watched those points below my house erode out. *Every day!*

So my question/statement is why didn't you call us? Did you call anybody else? Or is this like a group thing where you get a couple 100 hearts together and you sit in a room and say (inaudible). *That's* the delay. Because I think what we were supposed to be here about; you are trying to save some time (noises) reservation—that's my town. (Inaudible.)

Voice: If you need to know something about the Indians—call the Indians. Don't call the archaeologist! Call us. And now I'm ready to go home. (Laughter.)

Voice: I met with this Ed (inaudible), is that his name. The archaeologist. (Inaudible) trying to do our CRMP along the Missouri River. So I told him that he needs to

get hold of all the Medicine Men with every tribe; sit down with the Medicine Men to identify some of the (inaudible). One Medicine Man told me that they used to utilize 102 plants along the Missouri River medicinal plants and herbs. Those are the types of information that we think would be (inaudible). You need to contact our offices instead of talking about economics.

Voice: We have (inaudible).

Voice: (Inaudible) still in the distance or some (inaudible) because of this (inaudible).

Voice: Well, they're lost due to a construction of (inaudible) lands. There are a few places they could give you medicinal plants and herbs but unfortunately they are on non-Indian lands (inaudible). And incidentally, Bozeman lost 1400 acres. Prior to 1978, we were a five-colony reservation. We are not included in the (inaudible).

Tex Hall: For the record, you should be. (Inaudible.) (Multiple voices) (Inaudible) Three Affiliated support that. I appreciate the Corps coming here today; you couldn't fly in because of the terrorist attack on the United States. (Inaudible) appreciate that very much. (Inaudible) joint task force very appropriate. There's no reason why you can't do a joint task force (inaudible) with some representation by the Corps to work on this specific issue and come up with one that we can totally agree on. I don't think (inaudible) Army Corps and Tribal Joint Task Force (inaudible).

Hargrave: Who would we go to, Tex, to find out who should be on this task force?

Tex Hall: (Inaudible). Maybe come back over a (inaudible).

Voice: There's one other thing that on the medicinal plants when the Corps is working on this called Recreational Rivers and that's part of the south of Gavins Point— between Gavins Point and (inaudible) State Park which is on the Nebraska side. There is a certain amount money to try to recreate the river in the original form and part of that they do want to work with tribes on identifying medicinal plants so that they can work with landowners who will agree to allow and traditional people to be able to access those traditional plants. That is another, Becky Otto, who is a PM; what does PM mean?

McAllister: Project Manager.

Voice: Project manager (inaudible).

Voice: Project manager for the recreational river and one of the things that she has asked me to do to identify traditional leaders so that they can work with them on that. So that is a start but that's not part of the division; it's part of the district. And I'm learning that division and district are a little bit different. Although they're the same, they operate differently so. That's another area that maybe this task force

can follow-up on and work with Becky Otto on the recreational river.

Hargrave: Okay, well we have some choices here. It's about 10 after 11:00 already. We could go ahead and just break for lunch and come back like 12:30; otherwise we could take a break and then come back. So why don't we go ahead and break for lunch and we'll plan on being back here at 12:30.

McAllister We need to make a change to the handout that you got between this morning when we sent the disk with the file on it down to the office to get copies made and when we broke for lunch I made a change on this page. The two numbers I changed are these two so when you look at the page and under Hydro you'll see some numbers. There are 600 and some and you may want to pencil in 741.5 and 747.4 and I don't know what the percent was on that.

Voice: That was just in the handouts they just gave out.

McAllister: Those handouts, if you don't have one of these you are more than welcome to have one. They are not best sellers so I can't charge you for them. Just curious, hydro was .9 now it's .8— big difference. So the three numbers you need to change are this one, this one and this one.

The reason I decided to why to change them was because you guys had the Summary and the Summary—these are the numbers out of the Summary. Last

night my mind wasn't working clearly, I forgot where to get the numbers and correct those. That's why I'm standing up here talking and all of a sudden – ha! So I went ahead and changed it.

I started to go through just to show you the numbers that show up off and on in all the bar charts in the Summary. Just to get you a feel for the relative value of the economic impacts as far as how they (inaudible) the different categories. I want to show you how we did the computation to get the number that is in the Tribal Appendix tables. We talk about percent changes so I'll just show you how we get that number.

First of all, total economic benefits to the system are \$1.85 billion a year; so the system does provide a tremendous amount of benefits to the nation. The better share of those benefits are divided into two categories: hydropower and water supply provides about \$1.4 billion of the \$1.8 billion. Major part of them. Slack and coal comes in a not too far distance third but then you start going down into recreation and navigation, both of those play a very small part in the total economic development picture from a national perspective but yet those two surface the most often in discussions. People talk about \$85 million worth of recreation versus \$7 million in navigation. That number comes out all the time. I see how people get it because they look at bottom line and presentation of numbers like this and, for example, Bismarck (inaudible) printed in the paper one time last winter, what makes the decision so hard? It's 85 versus 7 so you do

what's in favor of recreation and move ahead and forget about navigation. Well it's not that easy. Once you get the EIS if you are one of those that elects to have a copy of the EIS to look at. You start breaking down recreation benefits by reach. That's what Tex Hall would like to have us do talk about what happens to each project.

There are three projects that are affected adversely in droughts by the operation of the system during droughts. That's Fort Peck Lake, Lake Sakakawea and Lake Oahe. Those benefits in those three lakes total \$32 million out of the \$84 million. So three lakes affected—\$32 million.

When you look at this number, you also find that \$20 million of that is the Lower River. Another million dollars of that is for recreation in the Fort Randall downstream reach. And when you contain water in the lakes during the drought that means you have less water release in the river reaches so recreation value goes down if you leave it in the lake.

When you start comparing the impacts of leaving the water in the lakes versus taking it out you don't look at resource \$85 million versus \$7 million—it's a \$32 million of recreation on the upper three lakes versus \$20 million of recreation on Lower River plus \$1 million of recreation in the Lake Randall reach plus \$7 million of navigation benefits, which makes it a \$32 versus \$28 million dollar comparison and that's pretty close for me. That's why our decision is not an easy

decision to make. Go back to the basic argument that a lot of people use—85 versus 7, it's not that simple. 32 versus 28.

That's why I threw those numbers up there and in the big scheme of total dollars, if we were to make our decision based on what factor drives the economics, we'd make it on hydropower. When Nick gets up and starts talking about hydropower a little bit, he'll be talking about tens of millions of dollars and if he were talking about total revenues on the annual basis, he'd be talking \$200 million a year which dwarfs these two numbers.

Just to give you a little bit of a perspective how the numbers fit in. As you can see the changes are actually relatively small when you come across the line here. This is the Modified Conservation Plan (MCP) so none of the Fish and Wildlife are in this for the Gavins Point options. Because there's no spring rise at Gavins Point; no lower flow there. But this is the basic plan that has the Gavins Point options added onto it. I just happen to have this on a slide and I was looking for stuff that I had on existing slides last night in my computer to paste into this presentation.

So let's look at how this number is generated. Because this is the number that shows up on the next set of tables we'll be looking at. And if we look...

(End of tape 5)

Tape # 6

September 13, 2001 P.M., Roy McAllister – Corps of Engineers

McAllister: Where there was combination of vegetative sand and bare sand and so that year you may not have had any terns or plovers to build a nest on some of those islands. But what you did is you created clear sand habitat for that next spring. So next spring when the flows are actually *lower* in that reach you'd have more bare sand habitat exposed in the same way the third year. You'd have lower flows in that reach and you'd have more bare sand exposed. Well in the meantime grasses and different vegetation is starting to grow and so you start to lose habitat but that fourth year all of a sudden you run the high-flows across it again; scouring the vegetation off and you are off and running again with a clear sand and then the scouring of the vegetation.

So you set up that three-year cycle and keep a lot more clear sand habitat available for the terns and plovers. That's why that number increases quite a bit. It also goes up higher when you start putting out the spring rise below Gavins Point. The reason for that is that again (inaudible) that by (can't remember your name right now) but anyway she asked questions. Do the flows change when they get the water down for the spring rise and higher fall flows and lower summer flows, they do change in the (inaudible) reaches. So trying to get water down to Gavins Point, put the spring rise out; raise some higher flows; (inaudible) a little bit cleaner in

the Garrison reach. Create lower flows in the summer; not lose much water in the summer so you have lower flows in the summer in the Garrison reach later than you normally have under the current Water Control Plan (CWCP) and so you expose just a little bit more sand and so the number goes on up from 316 range up to the high 300s or around 400, don't know the what the exact number is. So it's beneficial to put a spring rise out below Gavins; it helps the Gavins reach (inaudible). Just upstream from Randall reach and then on up into the Garrison reach. It adversely affects the Peck reach and what I'm talking about kind of goes to pot on that reach but I'm not sure exactly why that happens but anyway it does happen.

Wetland Habitat—in the 42 sites it just sums up to 156,000 acres of wetland habitat in those 42 sites and goes up to 157,000 acres. So very little change between these two alternatives. Riparian habitat drops 2000 acres. Well, when we surveyed the sites they were a set size; so one type the habitat goes up chances are the other type of habitat will go down and you also have bare sand habitat and open water habitat on those sites. One type of the habitat goes up; maybe the other goes down. That's what we found. That is indeed what happened.

Then historic property, again, go back it shows a decrease of in the index of about 140 and that's a 2.8% decrease.

Voice: In what?

McAllister: In that index, it gives us an indication of how often the thing was hit. How many of those hits occurred. The lower this number the higher the number of hits—and that's bad. Meaning that more times that sites are exposed to the impacts of erosion.

And again you can see the percent changes raise. The big ones (inaudible) river, drops seven almost eight percent. Tern and plover habitat goes up 43% so the unbalancing of the system was very beneficial tern and plover habitat.

Well, this is what happens on a total basis for these two alternatives and what you are interested in is something we have never done before in the EIS and that is sit down and talk about it and how it impacted reservations in Montana; how has it impacted reservations in North Dakota and South Dakota and so forth.

We elected to, for this EIS, identify what happened on a reservation-by-reservation basis. So we looked at the Fort Peck Reservation reached downstream from Fort Peck Dam, the Fort Berthold Reservation in Lake Sakakawea, the Standing Rock and the Cheyenne River Reservation on Lake Oahe, the Lower Brule and Crow Creek Reservations on Lake Sharpe, the Yankton Reservation combination of Fort Randall or Lake Francis Case reach and reach downstream from Fort Randall Dam and then the Santee Reservation on headwaters of Lewis and Clark Lake. There are a few acres of (inaudible) tribal lands in that same vicinity. So we looked at

the potential impacts to those lands that are essentially near the headwaters of Lewis and Clark Lake. We looked at Winnebago and Omaha Tribes downstream from Sioux City on the Lower River reach there and then the Iowa and the Sac and Fox Reservations down on the Nebraska/Kansas border area of the river.

So there are tables set up for those reservations and this table is presenting the relative difference from the current Water Control Plan (CWCP) the percent change from the current Water Control Plan that I showed you a little bit ago how we compute that.

So this is saying, just to give you an example, Modified Conservation Plan (MCP), we looked at that number a little bit ago. Let's just drop back that one slide.

Overall wetland habitat improved by .9% but if you look at the reach—the Fort Peck reach—where the Fort Peck Reservation is the Modified Conservation Plan improves wetland habitat *in that reach* by 3%. So that reach is one of those reaches that is helping to have the overall percent change go up. Three percent improvement means that that reach is following a positive direction. If we go through keep an eye on this block here and they may not all be positive; they may be some negative, some positives but because it's the positive of this reach it's following the general trend of the overall and that is a small positive change.

When we add the spring rise to Fort Peck and to the Lower River at Gavins Point it has a negative impact to wetlands in that reach. I can't tell you of the

mechanism that causes that; I'd have to go in and look at annual data, eventually I could come up with the answer if I looked long enough. And I've done that on a lot of different resources but I haven't had time to look at why all these number are what they are but the bottom line is the spring rises from a wetland standpoint are not good in the Fort Peck reach. Riparian habitat changes are essentially zero in that reach.

Tern and plover habitat—as I said earlier was unbalancing (inaudible) tern and plover habitat in that reach. But for the spring rise combination of putting the spring rise and this has the spring rise at Fort Peck in it. So these both have the Fort Peck spring rise. This is caused by the spring rise at Gavins Point Dam. The kick back affects upstream that Ms. Madison was talking about earlier. Are there changes in the flows between those reservoirs within the system to create the spring rise below Gavins? Yes, there is. Does that have an impact that's different than not putting it there—definite change in the Fort Peck Dam? From a positive 61 or -43%. Yes?

Voice: Why is there a difference the (inaudible) on these? (Inaudible) Fort Peck Reservation (inaudible) alternatives (inaudible).

McAllister: There are two sets of them. I became aware of this about twenty minutes ago when Mike brought it up to me. There are two sets of these tables in the Tribal Appendix. We analyze two different sets of alternatives in this Revised Draft EIS.

We have Chapter 5 which is I have here you can see vertical voluminous type amount of information. Chapter 5 we evaluated the sets of alternatives and sent them into the Corps for consideration. In other words, following the preliminary Revised Draft EIS that we circulated in August 1998, we encouraged different entities to submit alternatives for us to consider as we moved ahead towards identifying a third alternative. We evaluated each of those sets of alternatives in terms of trying to understand the things that we liked; what type of support was there out from across the basin for those types of changes. We shared this information with some different groups. For example, the group asked us to evaluate certain alternatives; we shared that information with them so they could see how well their alternatives were forming. American Rivers submitted an alternative; they have the results of that analysis for about a year and a half now.

Chapter 5 just compiles all the information that we developed over the last little over a year and a half on those alternatives submitted to us to consider. Then we sat down and looked at all these alternatives or impacts; we said okay let's select our own plan basically.

Turns out the Modified Conservation Plan (MCP) uses the conservation measures for all of the Missouri River Basin Plan that was submitted to us for consideration. We used that conservation plan. All the plans, when we develop a total plan for the operation of system we have to identify are we going to change how we operate in drought. That was picked off the study to begin with. Then these other Fish and

Wildlife issues surfaced throughout the study some were there already being studied and we had to decide whether we were going to do the U.S. Fish and Wildlife needs in the basin.

So different components were added to that conservation plan to identify a total plan that addressed the conservation need during drought as well as the Fish and Wildlife need throughout the whole period.

Voice: Roy, those percent changes; are they for the next year or for they for the life of the Master Manual that's implemented in some fashion or five-year period or what is the percent change?

McAllister: They are based the average annual benefits over a 100 year period of analysis. So we looked at what would have happened from 1898 until 1997 as we operated with inflows and stuff that came in during that period operating the system through that period. So it's an average of 100 years of data.

Voice: For which tribe?

McAllister: These are set changes using, again to go back one chart. This is the average annual value over 100 years all these numbers at the top are the average annual values from 100 years of data.

Yellow So this is one that the tribes should be...

Bird:

Hargrave: You are talking about the sets of alternative. I think for the discussion today we should focus on these...

McAllister: Rose, you have to look at the ones that have this on top.

Hargrave: Right.

McAllister: GPs, GP alternatives.

Voice: So this chart here in the Appendix the MLDDA (inaudible). These are alternatives submitted to you? What you did is you lumped these together and you (inaudible).

McAllister: Well, we looked at what things did we see that we liked and what things didn't we see that we didn't like or what things does basin tell us they liked; what things did various entities tell us they liked and we came up with our own plan picking out the parts that we liked the best. For example.

Voice: (Inaudible) lots of information out of these biological opinions Fish and Wildlife Service and Missouri River Basin.

McAllister: Yes, right.

Voice: (Inaudible) well, that's I asked. Do you pull your information from here to get to that?

McAllister: Right.

Hargrave: Yes, we did.

Voice: Well what happened to Rosebud now if you are doing a 100 years of studies on Fort Randall Dam on the west side of Fort Randall Dam?

McAllister Right now we do not have a separate table for Rosebud; it's not to say we can't put one in. When we looked at, there was what one apiece for 28, 29, 30 tribes total in the basin and we looked at the impact to just those tribes that has lands adjacent to the or very near in case of (inaudible) tribal land to the Mainstem of the Missouri River. Now I don't know if Rosebud has land adjacent to Fort Randall Dam.

Voices: Yes, it does. (Inaudible) county.

McAllister: But are the lands within the county of that or are they...

Voice: Land adjacent to the Missouri River.

Hargrave: We need to add Rosebud.

McAllister: Do you have any recreation facilities affected along Fort Randall Dam or the Lake
(inaudible)?

Voice: (Inaudible.)

McAllister: Okay.

Voice: EDA (inaudible) and it sits on the water still, I need a number on it.

McAllister: Okay.

Voice: (Inaudible) ignored all that?

Voice: I don't think we ignored it; it's just an individual that made decisions (inaudible).

McAllister: But we will, we can fix that. That's not that difficult to fix. We'll go ahead and
add those in.

Yellow Are there any other tribes that are not on this section to be added? (Inaudible)

Bird: understanding is a whole bunch of tribes that have interest in the sacred and

cultural sites that may not appear on (inaudible).

Voice: (Inaudible) 1868 Treaty the whole treaty boundary was the entire Sioux Reservation.

Yellow And so which tribes are missing (inaudible) We need to add them too.

Bird:

Voice: They have land adjacent to the...

Yellow Well, they have site...

Bird:

McAllister: I'm telling you what our criteria is, okay? Our criteria is for picking this if you have a recreation site adjacent...

Yellow Right.

Bird:

McAllister: Or lands...

Yellow I know what your criteria is but we have our own. And there are tribes that have

Bird: interest in those lands whose interest are not being addressed. They are sovereign nations that you have to consult with them (inaudible).

McAllister: Well, that's up to other people other than me. I just do what I'm told to do.

Yellow Right, but this is the time we are trying to bring it up.

Bird:

McAllister: Well, one of our people decided which ones we have. We've got a little bit of time to get them in.

Anyway to continue on. I'm showing you basically how to use the table and one thing that I said in the document, we didn't highlight the areas that had a 0, a 1 or in this case there is no -1 on here. One reason we don't do that is our models are not perfect. We've already discussed how imperfect they are. They are imperfect in a lot of different ways and one could say that a +1% change could easily have been a 0% change or could easily have been a -1% change. So we are not going to highlight that. But that is still up to the individual tribe, the individual person reviewing the EIS for what their various concern are and make that decision for themselves. So just because I elected not to highlight that one, that one may be important to a tribe or it may be important to Western Area Power Administration (WAPA) or whatever. You may still want to consider the +1s, the -1s and the 0s. It's just that we elected not to highlight them. We elected to highlight anything that was -2 or higher in the negative way or +2 or higher in a positive way. Just to cut it and help people focus on what were more significant changes.

Voice: (Inaudible) if you looked at that River Warmwater Fish Habitat line (inaudible); none of the alternatives (inaudible) have they are listed there as they are

(inaudible) benefit the warmwater fish then obviously that not correct (inaudible)
you even talked about modifying they flow.

McAllister: You are up with Fort Peck Reservoir?

Voice: Yeah.

McAllister: That's one thing I say in the EIS is that those numbers do not have that. The
model can...it doesn't discern whether water runs over the spillway or...

Voice: So how do you draft comment to address that in the EIS (inaudible)? I mean that's
what you want to know also isn't it?

McAllister: What I would prefer to how you address what's in the EIS itself and that is
knowledge of that issue that adequately addressed in that. We have a model that
can capture that factor and so (inaudible). Your name is Deb, right?

Voice: Yes.

McAllister: What Debbie is getting at is that at Fort Peck we are planning to look at the effects
of putting water over the spillway versus running all the water through the
powerhouse. What we do the Service...what we modeled was a spring rise of 23-
kcf's out at Fort Peck Dam. Of that we anticipated that we would release 4-kcf's

out of the powerhouse and the other 19-kcfs would go over the spillway. We determined the spillway is adequate to handle that on a recurring basis and so forth. The reason for that was the negative water flow aspects downstream from Fort Peck Dam is that the coldwater releases are affecting some of the historic uses there and in particular the native river fish that use that river reach and one way to develop those species of, in this case the pallid sturgeon recover and other species to keep them from becoming endangered (inaudible) species is to raise the temperature of that water. So the Service has recommended as far as a reasonable and prudent alternative biological opinion is to put out the Fort Peck spring rise and to put water over the spillway.

Our model doesn't capture the fact that water is going over the spillway. Just sees that there is a release of 23-kcfs of which it knows that only 15-kcfs (inaudible) the rest of it comes from somewhere but doesn't acknowledge that it's going over the spillway and warmer water. It just isn't all coldwater like the powerhouse release is.

Voice: Roy, does the EIS select data (inaudible) discussion with (inaudible)...a little bit, you know model.

McAllister: Yes, that in the...presents the data but it says the data is not accurate.

Voice: So are there any other caveats like the wetlands or the plovers that we should be

aware of too?

McAllister: No.

Voice: Just for the rivering fish?

McAllister: Well, the only other caveat...I didn't say it in there but hydropower is the same way. Assuming about 23-kcfs, 15-kcfs is coming through powerhouse but in fact maybe only 4 will, maybe 7 will; we don't know really what the mix will be long-term. That will be determined by the work we will be doing in the next few years.

Voice: Need to add something to your answer, Roy, to Deb's question is that concerning plover model needs to be qualified because that particular model does not reflect creation of new habitat. So scouring the habitat (inaudible), but in 1998 after the high-rise of '97 the flows of '95, '96 and '97 essentially created a scenario where we had tremendous amounts of high elevation sandbar habitat created through the system. That particular model does *not* address that. Therefore, (inaudible) of tern and plovers, sandbar habitats that have been developed in the last few years are not reflected in the model or in any of the analysis. I think that's something important that should be addressed in...

McAllister: As stated within each section when I start to talk about plovers we describe very briefly what was the process that derived at the bottom line number? And how we

did the analysis and one thing that we acknowledge on the tern and plover is that it does not. The model that we have does not model geomorphic processes. In other words geomorphic means that the Lumina, sediments and whatever (inaudible) in the riverbed and so forth that there's nothing they would try to develop a model that could tell us as we changed flows how many acres of (inaudible) did you create; how many acres of sandbar did we create; how many eroded away with time and all that. There's nothing that can definitively tells us those numbers and so as a result we couldn't add that to most of the models. When we first developed the model we weren't going to bother with vegetation because we didn't know how to approach it but when we developed the wetlands models he says well, gees, that same thought process is applicable to growth of vegetation on sandbars and islands so we added that to most of the models. If we knew today how to change to address the geomorphic processes of changes in flows creating or losing sandbar habitat, we would add that into the model but right now we don't. We can't define that.

Hargrave: I guess, Roger, that's captured in the EIS is how (inaudible).

McAllister: But even if we wanted a greater amount of habitat, I think we would see that tern and plover habitat would increase and decrease. Now it may not do it by (inaudible) come back to that two sites earlier. We were told to go back and look at our hydropower analysis; we had the right numbers in there. We redid the (inaudible); we had our hydropower center of expertise look at it and they gave us

new numbers to use; they raised these numbers from 600 and some to 700 and some; changed that percent from .9% to .8%. It made not change in the bottom line, okay? So if we were to go through and do the same thing on terns and plovers, I venture to say that it's not going to change a lot from this. It might because this is the process that is affected directly by flows. The hydropower, the changes we made there were not directly affected by flows; it was how do you compute the cost of that replacement capacity and energy somewhere. It was not related to flows, whereas the tern and plover is related to flows. The geomorphic process is related to the flows that are in the river. Maybe I'm wrong they may completely change the analysis if we could add that component. We have to go with what information we have.

The same way with historic properties, you go with what information you have at this point in time and you can elect to use the information or you can elect to ignore it. All we've done is just laid it out there for you to consider as you decide is this alternative is good or bad for me. And again, even the small changes may be important to you, because (inaudible) see in it, they are not important to you as you read the document.

I've got recreation on there. Fort Peck Tribe does have some recreation facilities down along the river but again, the changes occur. No change is a positive change so Fort Peck Tribes; the Assiniboine Tribes do all these alternatives and is positive from a...no change from a recreation standpoint.

Water supply what use the tribes have for the water supply in that reach is all positively affected.

Flood control—we are putting out higher spring flows so one would anticipate that there might be some problems from a flood control standpoint.

Again we are trying as we work we move ahead. We are trying to identify triggers that tell us that maybe we need to shut off the spring rise. If something's happened like Milk River all of a sudden has an increase in flow or (inaudible) River has an increase in flows and we see some potential flood problems coming we can maybe take some actions to prevent that 2% loss in flood control benefits.

But the model we are assuming there is nothing that stops us from changing the flow the model doesn't put out. In real life, there may be some actions that could be undertaken to shut off the spring rise if a certain trigger was reached.

River Warmwater Fish Habitat—we've talked about that and we can't handle that.

Voice: On your minus number, are these broken down to categories that (inaudible) whatever? As to need?

McAllister: No. Again that...

Voice: I guess a -14 impact; what does that tell me?

McAllister: It just tells you it's a 14% loss in that value. Whatever the factor is in the case of 14 in the case here of wetland habitat you will have fewer acres over the long run, fewer acres of vegetation that grows in this one wetland site or two wetland sites that were evaluated in the Fort Peck reach of the river that will have...it doesn't show much change wet, woody vegetation. It shows a big change is wetlands vegetation so my guess is it's either going to be clear sand or open water habitat.

Hargrave: But it does change from the current water control plan.

Voice: In the EIS.

Hargrave: Well basic, how current water control plan could affect those over the long run if we were to operate for 100 years, how would that wetland change over a 100 year period?

Yellow: In the EIS are we going to get *clear* text that explains this?

Bird:

McAllister: Probably not, I'm not a very good writer sometimes.

Yellow Well, if it depends on you, can we have...let me rephrase that. In the EIS we
Bird: would like clear text.

McAllister: Are you insulting me right now? (Laughter) Just kidding, don't take me seriously.

Yellow Well, don't take me personally because it doesn't have anything to do with you.

Bird: For my tribe, we need clear text that explains these charts. Because I've been really trying really hard to pay attention and I'm just not getting it. This stuff doesn't make a whole lot of sense to me. So I need clear text to tell me, the gentleman here, he said this -14 what does that mean? You clearly explained what it means but we need that text in the EIS too. And what's this NA; are you saying that all of those are alternatives for historic properties are not going to have...that it doesn't apply and there's not going to be any change?

McAllister: It's not applicable because we have no data for that reach; we have no data for the Fort Peck reach.

Yellow Did you will try to get some data for the EIS?

Bird:

McAllister: No.

Yellow Why?

Bird:

McAllister: (Inaudible) not to do it. We went with our best available information. That's all I can say, Pemina. We did not have any information.

Right now.

Yellow Say it again! I want to (inaudible).

Bird:

(End of side 1 of tape 6)

McAllister: They are going to issue a contract with the Fort Peck Reservation to have them to go out and do a cultural resources survey so that in the future we have appropriate information to use for this reach.

Yellow Well, I just asked you are you going to get some information and you said no.

Bird:

McAllister: We won't have it in time to use in the EIS, *if* the EIS stays on schedule.

Voice: But this contract is ongoing right now?

McAllister: It is ongoing right now?

Yellow But the info is not going to be the EIS? So how is Fort Peck going comment?

Bird:

McAllister: Is it Peck? I don't know. They won't have that information to comment on that?

Yellow This is astounding!

Bird:

Voice: (Inaudible)

Yellow Did I hear you correctly?

Bird:

McAllister: I don't know the answer to the question.

Yellow We are here to talk about a Master Manual and we are not going to have any

Bird: information to comment on where our sacred and cultural sites are concerned?

McAllister: Yep, on that reach.

Yellow And you spent millions of dollars and all these years getting information about

Bird: terns and plovers but there's *nothing* for our *sites*?

Hargrave: Not for that reach.

Voice: (Inaudible.)

McAllister: (Inaudible)be able to use the Fort Peck information for any tribes on Fort Peck

Lake and we used the Garrison or Lake Sakakawea information.

Yellow Okay now slowly repeat that. I'm going to write this word for word. I'm quoting
Bird: you.

McAllister: Any tribe that is located...

Yellow No, no. The decision was made to issue a contract of what?

Bird:

McAllister: The Fort Peck administration.

Yellow But that isn't in your first statement. You said (inaudible) not getting more

Bird: information and that the decision was made not to. Who made that decision?

That's what the (inaudible).

Roy said the decision was made not to get any more information.

McAllister: (Multiple voices) (Inaudible) we made a decision on the best available
information—first.

Yellow Who's we?

Bird:

McAllister: Whoever the team members were and there was no decision to move ahead with

surveys on the river reaches—the river reaches...

Yellow To go with existing information.

Bird:

McAllister: We did no cultural resource work on the river reaches.

Yellow On the river reaches. And you realize, of course, that a lot of those existing

Bird: surveys are *way* too old to be used. You realize that, right, Roy? We do.

McAllister: No, I don't.

Yellow Sure.

Bird:

McAllister: I personally don't.

Yellow On the river reaches. Aah!

Bird:

Voices: (Inaudible)

McAllister: We are going to hit on that. We've already got a contract in place to get the
information.

Yellow But not in time for the EIS! Big problem!

Bird:

McAllister: Comment on it; that's what (inaudible) comment (inaudible).

Yellow I know.

Bird:

McAllister: That's your prerogative to make comments you would like to make.

I guess I've said about all I can on this slide. What I intended to do was go through on a reservation-by-reservation basis and so the next one is the Fort Berthold Reservation. Reservation-by-reservation basis. In the EIS when we do present data. I need to backup a second and address something that Pemina asked. She also asked is there going to be any other information in the EIS that will more clearly delineates what the impacts are for the tribes. This is a summary table and what it is it's a way to visually allow the tribes to look at all the resource categories we evaluated in one quick picture and say okay where am I positively or negatively affected. Within each one of these resource write-ups there are tables and paragraphs that describe this change for the Fort Berthold Reservation; described this change for the Fort Berthold Reservation; described this change for the Fort Berthold Reservation so there is some detailed write-ups that talk about those changes.

Yellow (Inaudible.)

Bird:

McAllister: It talks about the absolute number that's in there and what the changes that are there. Sometimes it may mention what factor may have caused that change. So there is some detailed information on it. This is the summary table. The impact's summary.

Voice: You've got all those NA's in there though.

McAllister: Well, because you have no navigation that serves your reservation. You have no hydropower; we didn't assign that to any reservation. Back to where you are impacted is addressed in another part of the study; it's not done under the NED. We did look at hydropower impacts to tribal...and we'll show you that after a little bit. Mick will show you that.

There is warmwater fish habitat adjacent to the reservation. Your coldwater fish habitat we didn't...oh, this is on the reservoir now. I'm on the reservoir, that's why it's not there. There's no river adjacent to the Fort Berthold Reservation. Coldwater fish habitat is there but there is no tern and plover habitat and so forth.

Voice: Roy, can I make the suggestion that since you are still in the middle of developing this.

McAllister: We're not finished.

Voice: You're not finished. You are still working on it.

McAllister: We are finished with the exception of filling this line in. I didn't have the numbers last night or I would have filled it in.

Voice: But there's a difference between not applicable (NA) because it doesn't apply like coldwater fish habitat. Its reservoir (inaudible) so it doesn't apply versus indeed it's not available to do an analysis. So if...

McAllister: What would you like to see there then?

Voice: Just having it changed from a not applicable (NA) to data unavailable. You know, make a distinction between it doesn't apply in this reach area that you are investigating versus there wasn't any data to do an analysis like with historic properties on...

McAllister: This means no analysis and all those are no analysis of; there's no analysis of navigation for that reservoir reach; there's no analysis...

Voice: Maybe you should put that down somewhere. Make it clear.

Voice: That NA is "no analysis."

Voice: I think that's a very good point she's making; put that down...

McAllister: I didn't put the table together so I don't know what was in the person's mind why did he put NA and he never did put a footnote and that's the first time...

Voice: That's a good point for the record though. But I would note that in the historic properties. I don't know why, Roy, we are not using (inaudible).

McAllister: There will be numbers here.

Voice: I don't know why we are not using data.

McAllister: I didn't have the numbers with me last night. Yesterday Pemina indicated that there would be...in light of not having or versus an NA in there she would rather see numbers for in the case of the Fort Berthold Reservation, what is the for the Lake Sakakawea portion of these analysis. Then we'll put those numbers in. In other words...

Yellow Aah! The whole river. We need them on all the reservations.

Bird:

McAllister: Well, I just put the total number in and that total number is...

Yellow No, no. Not total number. Here's what we need in writing in order to adequately

Bird: assess the impacts of the various alternatives on our sacred and cultural sites. We need up-to-date information. We need it in time to be able to comment on the EIS. Having no analysis or not applicable or using ancient surveys is not going to be helpful to us.

McAllister: You told me yesterday in front of this group that in lieu of what you decided today that yesterday it wasn't acceptable for us to put information for the Fort Berthold reservation the total change that we would see on Lake Sakakawea numbers would be acceptable. Now today we've talked about a lot of different issues relating to historic properties and...

Yellow Bird: Yes, we are going to need for Fort Berthold; we are going to need it for *all the land* along the river—not just for Fort Berthold. Not even just the reservation land.

McAllister: I need to know from you right now what number you want. The total number. I've got a choice of we've done four lakes and have numbers for four lakes and have the *total* number. Now which of those five numbers do you want me to show for Fort Berthold?

Yellow Bird: None of the above. All of the above.

Bird:

McAllister: Well, it's will be an NA then.

Yellow No, no. All of the above. Roy, you are getting frustrated but let's try...

Bird:

McAllister: Well, give me a straight answer.

Yellow I'm trying to. And let's be respectful toward one another, okay.

Bird:

McAllister: Yes.

Yellow All right. We here as sovereign nations; we are trying to get all the information

Bird: compiled that we need as sovereign nations to make comment on the Master Manual and the EIS. We need timely up-to-date accurate information related to what those various alternatives do to our sacred and cultural sites. I don't know what your choices are in terms of numbers. I'm just telling you this is what we need, okay?

Voice: Pemina, what do you mean when you say...you need *total* numbers or specific numbers?

McAllister: We evaluated four reservoirs. The historic properties (inaudible) of four reservoirs. We have a limited number of sites we looked on Fort Peck Lake. We went out and did a cultural resources survey there as part of the study on a small portion of the shoreline. We did analysis based on existing data in the database at

the time that we pulled the data off for Lake Sakakawea. We did the same thing for Lake Oahe and then just recently we added Lake Sharpe. Four numbers that to get the total number that is on this chart here, I added the four numbers up and I get it *that*. So I have a total number.

Voice: What does that mean? What is that number mean?

McAllister: That number means that the index value for Fort Peck Lake is some number that is greater than the greatest number of hits that have hit in any one year. In other words, if you count the number of hits and the number of hits that could occur on Fort Peck Lake it's total number of sites that are in the elevation bands and if it's an 8-foot band there and there are 50 sites within that band and all 50 of those sites have hits every month of the year. That means its 50 times 12 hits or a number 600.

Now you go through and look at all the years and if 600 is the highest number, you need to pick another number that is *higher* than that to subtract 600 from so that you will always have a positive number in *every* year. The reason why we wanted to turn into a positive number is we wanted from all these categories up here a positive change reflected by a positive change—a positive change in that number means it good. The benefits, okay? A negative change is bad. So that's why we couldn't put of hits there because the higher the number of hits the worst it is or it's bad. We had to convert to and find a way to convert that number so it would

always be a positive number if the number of hits went down. So we have, let's say, 600 hits. The number we picked was 700. Subtract 600 from 700 and you get 100. You subtract 610 hits from 700 you get 90. So the index went from 100 down to 90 because the number of hits went up which is bad so the index value went down. So we are trying to make things like I say—positive changes in these numbers are good. In other words, this is good, this is good, good, good, bad, good, good, good, bad, bad.

Voice: We're still on that same formula with the numbers of hits (inaudible) on that limited formula.

McAllister: Right. So we did that for each lake. Now I have four lakes with index values.

Voice: What are those lakes?

McAllister: Fort Peck Lake, Lake Sakakawea, Lake Oahe and Lake Sharpe.

Voice: What about Lewis and Clark (inaudible)?

McAllister: Lake levels never changed so either that or we didn't have (inaudible). I don't know why it wasn't. It was not involved in that part at all; that was a change made. Lake Sharpe was made this year by the modelers and I don't know—they didn't tell me what they did; they just did it. And I don't know if Rose knows if

they did it; why they did it? They just did it. They are trying to address some of the issues that surfaced and that was the only change that they were able to implement in time for us to right this Revised Draft EIS. They considered some other changes and used set of data there are other changes or other factors needed to be considered and we'll have to look at that to see if we can incorporate any of those in the before the final EIS.

Voice: So we should change our (inaudible) later.

McAllister: For Fort Berthold Reservation what I heard, what I heard yesterday from Pemina is that because Fort Berthold Reservation is located on Lake Sakakawea that we put the Lake Sakakawea number, in there instead of the NA number. That would be acceptable for the short term.

Voice: Makes more sense to me.

McAllister: Okay.

Yellow Right.

Bird:

McAllister: That's all I wanted to make sure that I understood. That's what I understand and that's what I would have changed last night in the chart in here but I did not have the numbers with me.

Yellow But here's the other thing is that the Three Affiliated Tribes have sites up and
Bird: down the river so we need *all* the available information about the sites. How our
sites are going to be impacted.

McAllister: And that's why, remember I said yesterday we didn't we put NA's in here because
we didn't know which of those, let's say, go back to Fort Peck. (Multiple voices.)
We show 50 sites were Three Affiliated Tribes sites which ones were Santee Sioux
sites. I don't know which ones are Crow Creek Sioux site. We don't *know*
because that wasn't part of the database.

Yellow Right.

Bird:

McAllister: And had it been part of the database we would be able to go back and say yeah,
specific sites located all along the river and the Three Affiliated Tribes well since
all these sites are Three Affiliated or associated with Three Affiliated Tribe
whether its Arikara, Hidatsa or Mandan Tribes and so we would have been able to
query the alpha file and identify those 50 sites of that and how often those 50 sites
hit over a period of...we would have been more than happy to do that but it wasn't
part of the database that we were working with.

So instead of printing out information that some might have offended by because
let's say, we show on Lake Sharpe that there may be sites on Lake Sharpe that

were Mandan Tribe sites at one time and associated with Mandan Tribes and though we talked about the Lake Sharpe sites being associated with the Lower Brule and the Crow Creek. Maybe the Three Affiliated Tribes are then sensitive to us doing it that way. So we elected to...we made the wrong decision. We elected to not show numbers at all versus maybe potentially offending a tribe and that's the honest to God reason why we didn't present the numbers. We didn't want to offend any tribe by saying that their sites and Fort Berthold are important to the Lower Brule but they are not important to the Three Affiliated Tribes when in fact they were (inaudible) side-by-side.

Voice: I appreciate your honesty on that, Roy. But I think that (inaudible) agreeing on; you guys have a timeline (inaudible) but on these (inaudible) why a taskforce would be very appropriate to continue to work on other (inaudible). Maybe at the end of the day, whenever it would (inaudible) with your timeframe (inaudible) could say this is a temporary (inaudible) furthering (inaudible) continue this data analysis and that at that point in time we will come to a final (inaudible) data that can be used (inaudible) different tribes (inaudible).

Yellow Bird: As of right now for purpose of your talking today tribal affiliation is important but what is more important is that we know what the fluctuating impact is going to be on the sites. Period. Tribal affiliation is sort of a side issue here. We need to know how many sites are there that you guys know about and how the various alternatives are going to affect them.

McAllister: All I know is if I ask the person or modeler who put this together who is—the gentleman retired a month ago—and he is so critical to what he knows in his head and stuff but he personally did not want to offend anybody. So he elected to do something that apparently it *does* offend people and he would feel bad. He would feel really bad if he knew he'd done that.

Yellow (Multiple voices.) It's not offensive; it's just not helpful.

Bird:

McAllister: Yeah.

Yellow Because where it says NA we need numbers in there so we know how to consult

Bird: with you guys on that.

McAllister: I sent a note to the contractor last night to put in the, for example, for the Fort Berthold put the Lake Sakakawea number in there and change the narrative in historic properties write-up and to add a tribal write-up to the historic properties section that goes through tribe-by-tribe (inaudible)that most of the tribes are located on those four lakes.

Yellow (Inaudible) don't you think (inaudible) numbers in there (inaudible)?

Bird:

McAllister: Well, they are there. Pemina, they are there but we are helping you to make the

association how we, for example, when we show for historic properties now in the EIS, we are going to show the change in the Fort Peck number or the Lake Sakakawea number for the Fort Berthold reservation. That number is in the EIS already.

Yellow Ah!

Bird:

McAllister: It's in there; it just doesn't say its for the Fort Berthold Reservation or doesn't say it's for the Crow Creek Reservation; it doesn't say it's for and so the Lake Sharpe number is in there; so is the Fort Peck Lake number in there.

Yellow But still we all have sites. Whether they are within our reservation boundaries or
Bird: not. (Inaudible) we all have sites up and down the river and we just need to see those numbers so we can make an assessment. We are going to have to comment on the various alternatives; if one's going to affect them more than the other that's going to make a difference.

McAllister: They'll see it, this page has already tabbed; I tabbed to put a hold on it and that's what I told the contractor last night to go through and (inaudible).

Yellow Who's your contractor?

Bird:

McAllister: And here we show the changes (inaudible) this lake-by-lake.

Yellow Can I have a minute to read this? (Multiple voices)

Bird:

McAllister: You go ahead and take a peak at that. So the changes between the lakes are shown but have I had them put the right alternatives. One thing this is that set of alternatives where we talked about had viable images.

Voice: (Inaudible.)

McAllister: Yeah, right, well I didn't have the numbers with me last night so I don't have a set of numbers with me to change this figure. You'll notice when I go to Lower Brule site, when you look at what you have in your handout in the Tribal Appendix it shows NA's here. Right now it shows zeros, but I changed that last night. I knew there was no change for the Lower Brule Tribes, the sites on Lake Sharpe, so I went ahead and changed that last night. But I didn't know what the numbers were for Lake Sakakawea and I didn't know what the numbers were for Lake Oahe.

Voice: This is very important for us because that impeded us from the (inaudible); to help us to develop a (inaudible). (Inaudible.) We don't have anything in here (inaudible) face in the next 10 years (inaudible) stabilize them.

McAllister: Again, in Chapter 7 we also write a textbook that was called *Mitigation and Monitoring* and we consider historic properties and environmental resources which

we can say that there is need for mitigation and I went ahead and said in that chapter in that section in chapter 7, I said that there are existing programs to do that but they are not (I can't remember the exact words is said).

Voice: Do you have that (inaudible)? Do you have chapter 7?

McAllister: No. It hasn't been...

Voice: That's in the Manual isn't it?

Hargrave: It's going to be in the EIS.

McAllister: Chapter 7 of the EIS. It will be in there it's just that it hasn't been processed yet but I do talk about the need to continue under existing authorities to continue efforts to protect the sites and so forth. That's written right in the Mitigation and Monitoring section of Chapter 7. Section 7.20, I believe.

Yellow Of the EIS?

Bird:

McAllister: Of the EIS.

Voice: Which is on the Web site, right?

McAllister: No, it's not—not yet—it will be. We plan to put it on there.

I wrote this stuff a week and a half ago. (Multiple voices, inaudible.)

Hargrave: Right, the...

Voice: (Inaudible) Who's your MIS Coordinator?

Hargrave: Right, the Summary is out. But in the summary is available, you know, this document is available on the Web site. The EIS document itself will be out hopefully the end of next week.

McAllister. Some of the decisions made in the last month of putting the EIS together threw a monkey wrench into getting the thing done in time. I don't think it would have made much more difference than a week of so on processing the EIS but we had a bunch of different writers on this and had to go back and rewrite sections; change things. We still are in the process of trying to get all PAs referral (inaudible) the document where we've change the names of the awful terms—got three different names for the alternatives in the last month and a half—trying to be sensitive to all different areas and it's all because some one decided not to have a third alternative whether it was me or Rose or whoever made the decision. The decision was made not to have a third alternative.

Voice: Why do you have so much NA on (inaudible)?

McAllister: Well, this on the Lower Brule reservation; it's on Lake Sharpe. The Lake Sharpe levels stay within a foot of itself all the time with no change and so first of all, the reservoir coldwater...there's no coldwater habitat in Lake Sharpe so we didn't model Lake Sharpe for coldwater habitat. It's not a river reach so we didn't model the coldwater and warmwater *river* at that. It's not a river reach so we didn't model the native river fish habitat in river.

Flood control does change levels; you have a recreation facility in there; it's not going to be damaged because the lake levels are not changing. So you shouldn't have any flood damages.

Water supply—their intakes they have are not affected because that lake level stays constant. So if you have an intake in that lake it doesn't have any change in process.

Voice: Do you have this chart; do you have it available for us? Because (inaudible).

McAllister: No, they didn't.

Hargrave: They are trying to append it.

Voice: I need to go back to something you mentioned earlier about this. I understand, now correct me if (inaudible). Historic properties item line there. The hits are within the 8-foot (inaudible). I think the word you used was band. You went up to Fort Peck and took this band area either an area or (inaudible) the lakes and that's where you got your numbers of hits from. Okay, I understood that, is that correct?

McAllister: That is correct.

Voice: Okay, I could follow it there but I also see the big problem of doing it that way and maybe you are aware of this, but as a tribal representative, my job here (inaudible). Where 8-foot band works within an 8-foot area. I would recommend that you go back and increase that band to an elevation simply because we are having sloughing effects. Wherever waves are washing out those cut banks for the shoreline, above the shore is sloughing off.

McAllister: I said the same thing to (inaudible).

Voice: Yeah, what's above the shore is sloughing down and I can tell you from personal experience and we are monitoring three of our sites right now. Your 8-foot band doesn't work on those sites because those sites that have sloughed off into the river at home they are where I live—they're gone! And they are *well* above the 1625 (inaudible) elevation level. They are well above your 8-foot band. But these

sites are gone! What remains of them is half of a (inaudible). (Inaudible) a couple of (inaudible). The other physical material up in there is gone. An 8-foot band for historic properties on the impact is not working. It could be improved on if you could just take into consideration maybe going, instead of going for 16-20 level take your 8-foot band specifically take this 8-foot range and what your hits are. This is what you impact is. Get your mathematician and go up to this elevation point with that erosion taking place on the river line this is how far that the effect goes in X amount of years. Because then you are going to get a more accurate, I believe, a more accurate database that you can make better decisions. Those sites that are gone that are washing in; water never touches them. Cutting them out, right out (inaudible).

In fact, on one of those sites you can't get to it right now because the water level is too high turns it back into an island. So you need to improve on that (inaudible).

McAllister: I just want you to realize that in the database (inaudible) are all sites, all elevations and (inaudible) water (inaudible) impact those sight (inaudible).

Voice: But my point being that within that band even though you are saying this is how you take it and everything to make it work (inaudible). You are not showing the true impact because what's *above* that dam is still being impacted.

McAllister: You are indicating that you look at the end results of these (inaudible). (Inaudible)

and you are right the impact doesn't necessarily come within that 8-foot hit. We didn't go the next step and say here's how many site that have lost. (Inaudible) so we didn't go that just like we did for the birds; we didn't say that we are going to take out (inaudible) nests or were going to increase (inaudible) by 10 or we are going to have 20 more birds since 1920 versus what was there in 1998. So we didn't go that next step to say what would be the sense of what we are trying to measure what effect that has on the ultimate resource occur. But it just isn't an indication that that resource will be more adversely impacted or less adversely impacted by (inaudible) measuring, for example, we'll use birds again. We have less island habitat for those birds we may have lower bird (inaudible). Well we don't go that step of saying how much smaller those bird numbers are. We can only go so far as to say the bird number will be *lower*.

Voice: I understand that part but my point is this, go ahead and keep your band in there but increase the elevation levels to reflect a different number. You just said something and I want to point it back out to you (inaudible). You go back to that first one that you did and everybody looks at these numbers. They are looking at the bottom line; they are looking at these numbers.

(End of tape 6)

Tape # 7

September 13, 2001 P.M., Roy McAllister – Corps of Engineers

September 13, 2001 P.M., Nick Stas - NAPA

Voice: I kept you specific. All he's talking about is that 8-foot band. He's not talking about what's happening up here above it.

McAllister: Talking about all the sites up and down but I'm talking about hits that's within that 8-foot band.

Voice: That's my whole point.

McAllister: (Inaudible.)

Voice: That 8-foot band isn't just impacting what's inside that 8-foot. It's impacting what's 100 foot up.

Voices: Exactly. (Multiple voices, inaudible.)

Voice: That's something that needs to be addressed.

Voice: At least point it out.

McAllister: I don't think anywhere we've indicated whether a site would be lost.

Voice: I'm not saying that 100 sites in 8 years you are going to lose 90. I'm not saying.
Give everybody the same...

Voice: I don't know what verbiage you used (inaudible) consideration.

Voice: Give everybody the same consideration when they look at these numbers and they
can take an idea of what you are trying to say. (Inaudible.)

Voice: I can't tell you because I don't have a basis for where they got (inaudible). Where
they get the (inaudible) value. What is the value (inaudible) rationalize it? Are
they putting a value on spiritual (inaudible) monetary value; what is it I don't
know. To make these things clear you need to be more specific, I think. If I could
add something or (inaudible) or do that I will, I don't know.

I wanted to point that out about the historic properties. An 8-foot band, I
understand where you are coming to that but I'm going to keep you guys focused
in on that 8-foot band. At least I know that when we mention that you tell me you
taken in factored in at a higher elevation (inaudible) that impact (inaudible). I'll
keep you honest. (Inaudible) No, you only talking about the 8-foot band. So
don't sit here or stand here in any meeting in front of the tribes and say we are
working on this, we are doing this and this and this. You are only doing it to a
specific area.

What I'm saying is get it up back where it belongs. Needs to come up higher.

(Inaudible) you've been saying that on the Platte River for many, many years.

(Inaudible) water doesn't impact (inaudible).

Hargrave: Roy, is this a good point for break! (Chuckles) I think it is.

Voice: The last time I talked I said no break and you wouldn't do it! (Laughter.)

Hargrave: Let's take like a 10-15 minute break.

Hargrave: The Draft EIS and the final one.

Yellow Right.

Bird:

Hargrave: Just so there was no expectation. I think what we are going to do is if we could we are going to go ahead and have Nick start with Western Area Power's presentation and then I noted Tex's is out of the room but then I think Tex would like to make some remarks and we also have a tribal elder here who would like to make some remarks. So we'll do Nick and then go ahead and have those comments by Chairman Hall and the Elder and then wrap-up with Becky.

Voice: Are we going to have like questions/answer period on maybe some other things on

this?

Hargrave: Oh, absolutely. We will go for as long as you want to go here. I think we need to come away from this meeting with a clear expectation of where we head on the Tribal consultation.

Voice: I know my tribe has a question that is not addressed here.

Hargrave: Okay. Absolutely. We'll at the end of things we'll have total open discussion and then we do have to talk about where we go from here. Go ahead Nick.

Stas: Good afternoon, my name is Nick Stas. Some of you I have met before (inaudible) meet some of you and for those who don't know me I'll tell you a little bit about myself. I've been working for Western Area Power since 1991; I have been Western's representative to the Missouri River Basin State and Tribes Association and for Wild and Missouri Natural Resources Committee. Prior to that I worked for Bonneville Power from the mid-70s up until 1991.

I'm going to cover briefly a little bit of background. This analysis is focused on the rate impacts and specifically we are going to point to potential rate impacts to the tribes based on their recent allocations.

Western's mission—one thing to understand and I think it's really important to lay

the foundation—Western’s mission is based on legislation. Just like other Federal agencies it’s a member of the Executive Branch. We comply with all our directives from the Pick-Sloan Legislation originally as amended by the Energy Policy Act of ’92. And I think this is important because as I will explain later under the Pick-Sloan Legislation we could only allocate two other—two utilities. In other words, we are wholesale power of seller and we couldn’t sell retail. Under the Energy Policy Act an exemption was made for the tribal entities so that we could deliver through contract mechanisms the benefits of Pick-Sloan power. I think that’s important.

We market and deliver—this is a very important cost-based hydroelectric power and related services. Cost-based really means what it costs to deliver that power; pay back the Treasury for the projects. The O&M for the Corps and the Bureau of Reclamation and the Aid to (inaudible) we are required by law.

We are one of several Federal electric utilities. Bonneville Power in the northwest has separate legislation; it markets power from the Columbia and Snake River Dams. Western Area Power covers 16 states and specifically the Missouri River power along with Big Horn River is the Pick-Sloan Division and this is the marketing territory here.

Now Southwestern Power Administration, there’s a little bit of overlap with Western in Kansas and Tennessee Valley Authority and the Southeastern Power

Administration. There is no power marketing administration up in this part of the country.

We transmit power long-distance over high voltage lines to firm power customers. We were created in 1977 under the Department of Energy Organization Act. Prior to that people that carry out Pick-Sloan from the '40s up until '77 was the Bureau of Reclamation up here.

We have four regional offices and a corporate services office in Lakewood, Colorado. We have no distribution that's retail selling or generation responsibilities. That needs to be amended a little bit. We do have some requirements for some renewable development on a very small scale but essentially we market the power from the Corps and the Bureau of Reclamation. We have 17,000 miles of transmission line that's 150,000 volts and above.

Our regional offices. The regional office for the Eastern Division of Pick-Sloan is in Billings, Montana; we market the power from the six Mainstem Missouri Dams as well as Canyon Ferry Dam; upriver Missouri Dam; the Yellowtail Dam on the Big Horn that drains into this basin.

Okay, how does it work between Western, the Corps and its customers? Western has eastern and the western dispatch center. We request the power to meet our firm power loads from the Corps on a daily basis—our dispatchers. This is where

it gets a little complicated, we don't know that the power is going to come from which particular dam at any specific point in time but over time I do have annual reports of, for example, last year what we sold from each dam in the Eastern Division of Pick-Sloan last year our power revenues were around \$260 million. So...

We make no money or profits. This was \$260 million as I said earlier gets collected to 1) pay back the Treasury for the construction of the dams; pay the operation and maintenance of the transmission line and the Corps dams and the Bureau's dams and provide some additional aid to irrigation and some other responsibilities that are provided for and (inaudible) to us. We have to pay for. After that it breaks even on what money is taken in.

The rates...we haven't had a rate increase in 9 years; our power a little 14-mil or 1.4 some cents of power are some of the lowest in the nation. Of wholesaling to our firm power customers which we'll get into.

By the way, I want to introduce one of my colleagues who works in our power marketing division and stationed here in Bismarck, Mr. Jim Bach, sitting right here. He'll correct me if I am wrong on any of this. (Laughter)

Okay, the Upper Great Plains Region. Pick-Sloan Eastern Division, as I said, we have about 2801-megawatts of generation capacity. That's kind of the main plate

capacity on the dams. Now we can't market all that because we know we don't get that maximum output every year. We market to a normal water year as determined by the Corps and the Bureau of Reclamation so we market roughly 2109 of those megawatts.

Hall: What happens to the difference of that? (Inaudible.)

Stas: Well, on a good year, let's say we have more than that, we sell that on the open market and for last year I have the figures that I can provide to you, Chairman Hall, if we are in a drought situation, however, and we don't market; we don't get that much generation which is the type of year we are in now. We have to buy purchase power; we have to buy thermal either coal power to make up power to our firm power customers. So there's a...it evens out.

Hall: So when you say...

Stas: In other words, if we are below the normal year we are buying power and on a very good year, we are selling power. You want to add anything to that, Jim.

Bach: Reservoir can complete fill up (inaudible); all the reservoirs at one time I think that's where the 2800-megawatts maybe come from. (Noise.) Average water year where the levels are at maybe a little bit higher than they are now. That's what we look at. In the long range we market 2100-megawatts of power.

Yellow So if you have a really good year and you have a surplus that you are selling; do
Bird: you save that (inaudible) to buy it?

Stas: If the purchase power. Sometimes it goes to pay back additional money to the
Treasury if that's what we are told to do and then we have to go in debt to buy the
purchase power. And Congress authorizes purchase power and wheeling budget
every year. So it tries; hopefully, it works out but over the long term it does work
out. We do come in even with bad years and good years and that's how this
number was selected.

Hall: Is this difference here, is this why the equitable compensation to tribes (inaudible),
Standing Rock, Cheyenne River, Lower Brule and Crow Creek is this where that
revenue came from? Or did that revenue come from (inaudible).

Stas: I'm not sure about what you are asking me. You are talking about...

Hall: We got a settlement because of the dams created the energy (inaudible).

Stas: Part of that money was money WAPA paid back... (Multiple voices.)

Hall: (Inaudible.)

Stas: Part of it yeah. That goes to Treasury and goes to settle that and the same way with the Pierre, Fort Pierre buyouts for the flooding. It's only...

Hall: 728.01 right. That's what you carry, right?

Stas: No! The normal year is this; this is the maximum generation capacity—best possible year. This is what's marketed on a normal year—2109-megawatts. And for last year we had a pretty good year—better than average year—on our (inaudible) power cells. I gave you that annual report from last year, Chairman Hall, it shows and now this year it looks like it's worse than normal because of bad water conditions particularly in For Peck. And so there is a little more purchase power happening. Do you want to add anything to that, Jim?

Bach: I think the system has worked at not a 100% of the time (inaudible) 2800-megawatts. Probably 60% of the time we do. It brings down the average of 2100-megawatts.

Voice: I'd like to make one comment to Mr. Hall here. Cheyenne River did not (inaudible).

Hall: Yours was different, huh?

Voice: Yeah, we tried but we didn't (inaudible).

Hall: Still under U.S. Treasury.

Voice: Yeah, I think ours at Standing Rock (inaudible) on...

Voice: I think Crow Creek (inaudible). (Multiple voices.)

Stas: In the, this is the Upper Great Plains Region, we maintain 7,745 miles of high-voltage lines and we employ a craftsman, electricians and linemen to do that maintenance that's...we have 98 high-voltage substations and roughly 200 other types of facilities: microwave stations, communication stations and we operate two control areas and Pick-Sloan one eastern interconnection and one western interconnection. That's our dispatch.

Hall: Does any tribes have any crops with preference on the transmission lines?

Stas: What we are operating on right now and this is fairly new, we are required to operate in accordance with FERC (Federal Energy Regulatory Commission) or as 888 and 889 on that process on open access and then with charges for our wheeling. This is relatively new; we are members of the Mid-Continent Area Power Pool presently with all the other utilities in the Midwest and in Canada and we are required to operate under those Federal Energy Regulatory Commission guidelines on who we let onto our lines. It's fairly complicated and in depth. I

can get you a lot of information on that but you want to add anything on that, Jim?

Bach: There is no preference to any firm customers that (inaudible).

Hall: Nobody in the northwest (inaudible)? (Inaudible.)

Stas: Well, if somebody had something to market, what we'd have to follow is the process that FERC lays out for us on this transmission access requirements. As I said it's relatively new and still being worked out.

Hall: I see that but just (inaudible) come from? (Inaudible) but obviously you must have (inaudible).

Stas: If you get contracts whoever wants to do it—market the power and *use* transmission lines—first of all there has to be availability or upgrade built to make sure the system can handle it without causing problems for the system and then there's a contract that's put into place for wheeling or whoever wants to build energy for market and whatever type of energy that may be. Now we are only part of the back grid; there are a lot of other folks that are industrial utilities they are all part of the regional grid. That gets even a little bit more complicated. You've have lots of contracts and dealing with all the other utilities in the region.

Hall: Well, my last question (inaudible). In your policy (inaudible) tribes preference

(inaudible)?

Stas: Tribes have preference for allocation; just like our other preference customers, as I said, you are an even little more than preference because tribes are the only people that we can provide allocation to that are not a utility. In other words, that sell to retail customers. That was provided for just fairly recently in the allocation post-2000 was made was 4% of our total load. And that was a start and, as I said, that was a process we had at Environmental Impact Statement as lot of comments; it was called our Energy Planning and Management EIS.

Hall: Even though we got 4% instead of 7, if I heard you right, we still don't have priority or access to that transmission.

Voices: (Multiple voices.)

Stas: Nobody has, right and that's...generation.

Hall: So we could create a generating plant (inaudible) preference (inaudible). Is that what I'm hearing?

Bach: If we have capacity available. First come first serve so (inaudible).

Hall: Do you have capacity?

Stas: Depends on where. See...

McAllister: You have to have a proposal; we have a part of our organization called System Studies that looks at every proposal of how many megawatts, where they want to put it and how is it going to affect the system. Then some cases there is a negotiated agreement to pay for partial upgrade. If we have enough right-of-way; whether we've got to buy new right-of-way.

Hall: (Inaudible.)

McAllister: Occasionally they do. (Multiple voices.)

Hall: Okay, fine. (Multiple voices.)

Bach: In the state of North Dakota there's hardly any available (inaudible). They would, one of those coal companies or the power companies build another generation plant, they'd have to build on their own. (Inaudible.)

Hall: Well, we are talking about (inaudible).

Bach: Well, another plant is going to have take some (inaudible). We don't have any available.

Hall: There's no thought to do that to develop another (inaudible) plant?

Stas: There is a proposal, there's a proposal that's being looked at right now for upgrading a line and even building possibly a new line for Belleville (inaudible) for example. Just because of system, trying to keep the system stable. But there are a lot of proposals and a lot people asking what it would cost to do different things in various places. It's really a lot of activity in the energy arena right now.

Hall: So how does this affect the 4% set aside for the tribes?

Stas: That doesn't affect it from the standpoint that that 4% is going to be whatever the normal marketing year comes out of after the Corps record decision on this EIS. It's going to be 4% of whatever we can of our marketable load. Now, there's going to be some changes coming up. I think we can go to the next slide. In 2004 there's going to be another allocation.

Bach: 2006.

Stas: Or 2006 and that's going to be another what—2%?

Bach: Will be 1%.

Stas: 1%.

Bach: 20-megawatts more available (inaudible).

Hall: Does that follow the same formula that was...?

Bach: Yeah, all our existing firm power (inaudible) 1% of their allocation (inaudible).
Resource pool. (Inaudible.)

Stas: Now, we allocate to preference customers. That's important definition. Our preference customers are: REAs, coops, all the public utilities and municipalities and tribes are also preference customer for power allocation. We determine power rates based upon what it costs to deliver that power, pay back money to Treasury, pay the operations and maintenance costs and our aid to irrigation that we are required to provide by law.

Hall: On this 4% set aside for the tribes. What formula do you use to distribute fair share of this 4% because (inaudible).

Stas: Okay, we'll refer to Jim because that's individually done and has been a long process to get a bunch of contracts signed mostly through the local coops or whoever is providing delivery. Do you want to talk about that, Jim, at all?

Bach: Well, there was 4% withdrawn back from our existing firm power customers. Of that 4% then about 3% of that went to the Native American Tribes. These tribes of that allocation how much would be about 60% of the tribal total loads. So each reservation went out and surveyed how many personnel are actually on the reservation; developed maximum amount of megawatts (inaudible), kilowatts and kilowatt hours actually using. Had that resource pool (inaudible) 60 megawatts of power instead of 4% or 3% of total allocation. So all the tribes receive about 60% of the power indirectly and directly from Western.

Stas: Of their load?

Bach: Their total required load.

Stas: Yeah, 60% of their total load.

Hall: So it is based on the average house with a roof?

Bach: Right.

Voice: (Inaudible) will this...will anything but the EIS affect the rates?

Stas: We'll get a few slides later and get into that. Real quick here, we'll keep moving along. Okay, keep going.

Okay, I just went through this and municipalities, REAs, other federal and state agencies—they are also preference customers. Public utility districts are; irrigation districts and Native Americans. That waiting until the back one.

(Laughter.)

These are Western. These little guys do not have an explanation; these are all of our 260 firm power customers. And let me distinguish a little bit. Firm power customers—we have an obligation to serve on their load where we have to go out and buy purchase power and each one of these is numbered in our annual report. We have surplus customers, when we have the excess that I talked about, that's above the normal water year. We sell to and that's at the going rate; that's not at the firm power rate; that's whatever the market is.

Yellow These are all the places where you send (inaudible)?

Bird:

Stas: These are the 260 firm power customers in the Upper Great Plains Region of Western Area Power.

Okay, go ahead.

Okay, marketing plans—we've had a number of marketing plan that we operate under from '59, '64, '77, post-aid and fire and the next slide the new one post-

2000 to the present. Okay. We already covered this that the tribal customers equals 60% of their estimated 2000 load—is the way the allocation was made.

The Master Manual—customer service groupings. What our power customers requested of us to understand better how they are impacted by Master Manual, we broke it down to what percentage of their power is served by Western. We have categories of 10%, 40%, 70% and 100% in the EIS. Now 60% was added in here because that's the tribal load is 60% of their total loads. So it's added in here but it's not in the EIS.

McAllister: It comes out. There's...

Stas: It comes out that way.

McAllister: The tribal (inaudible) is in there.

Stas: Okay. Roy tells me it is. But at least in a summary that I looked at it wasn't in the summary.

Now the hydropower alternatives are compared or 100-year average to the current Water Control Plan (CWCP). Assumed power is sold and purchased at synergy rates as of January 30, 2001. All that synergy rate means is what's the going futures market rate based on the spot market crisis. If you would go out and buy

that much power, that's what that tells us and that changes fairly routinely. Price of power has spiked up in the Midwest as it has in California so that's where we are up-to-date on using for analysis that I'm going to talk about here.

There was a rates group are actually Darwin Helm and Bob Real did a rate impact from either revenue increase or decrease based on the alternatives that were presented by the Corps. We studied the impacts on our various customer service groups.

Now, this is in your handout. Each of these put a GP instead of in an MR and will match up with the Summary EIS. The current Water Control Plan is self-explanatory. These are dollar impacts to Pick-Sloan firm marketing 100-year average and you can see the alternatives vary in millions of dollars of impact to revenues up to about \$40 million for some of the alternatives to...

(End of Side 1 of Tape 7)

Stas: About in the Summary there's a paragraph there.

McAllister: Nick, is that actually dollars generated there?

Stas: Yes, it is.

McAllister: Okay.

Stas: Average annual penalty compared to the current Water Control Plan and it's on an annual basis here.

McAllister: And, Nick, that does not include the firm, that's just that which is an excess or a shortfall from the firm power.

Stas: Right so these are revenue impacts in this chart. If we go ahead here we might become a little bit clearer.

Hall: August, that's what \$40 million? Is that what...?

McAllister: Yes.

Hall: That's what we generate?

McAllister: No. Water control plan.

Hall: Say it again, Roy.

McAllister: With the current Water Control Plan and the MCP alternative, which is Corps 00 on here, it's supposed to be MCP that we changed names as we moved through the

EIS process.

Hall: White purple is for current and (inaudible).

Stas: That is the kind of the purplish of light blue and the darker blue is the conservation.

McAllister: MCP. Modified Conservation Plan.

Stas: MCP.

Yellow Can we have a color version of this in the Executive Summary or will we?

Bird:

McAllister: No.

Yellow Those are the alternatives up there?

Bird:

McAllister: These are alternatives that are reflected in the Summary right now.

Voice: This will be in the EIS though?

McAllister: Right.

Yellow A color version?

Bird:

McAllister: No. Black and white.

Yellow Okay, you're going to a different graph then, right? So we can tell a difference

Bird: between the alternatives?

McAllister: Somewhat—go ahead and move ahead there, it's a little bit more clear version here with. This is increase in purchase power costs broken down to our types of customers based on percentage of loads they get from WAPA. Some very big utilities, for example, Omaha Public Power may get 10% or less of their load; their impacts to their rates is very insignificant. Of 100% the impacts are above 20% for at least these two alternatives, the MR2021 and the MR1521.

Hall: What does those MRs mean?

McAllister: Those are GPs in the Summary. They are the GP with the same numbers.

Hargrave: This is basically the chart that you see on page 17 of the Summary, right. It's in different colors.

Hall: That'll tell us where that (inaudible)?

McAllister: Right. Right and except the tribal load is right here at the end with a 60%; if a 60% load; the two biggest impacts on their rates would be the 1521 and the 2021.

Stas: Those with the lowest summer flow will have the biggest rate impacts for the tribes.

Hall: (Inaudible)

Stas: Well the least impact would be the 1528, right. For, that's just looking at one factor now. All that's looking at is your rate impact based on these various alternatives. There are other things to weigh as Roy said. There are other factors that may be of more importance or not to you. I don't know but just from the hydro standpoint—that's it right there.

Okay, go ahead next.

Hall: Touch on that a little bit more (inaudible); we're just looking at the hydro and...

Stas: If you only considered, if you were going to make the decision on what you supported only based on what your hydropower costs would be based on your current allocation this analysis is showing the 1528 would be the best because was the only criteria you were looking besides your (inaudible) impact.

McAllister: A better way to state that is that if you are one of the tribes that does get the hydropower.

Stas: They all do.

McAllister: Then you're electric bill would go up by about 8-9% if you had an alternative had a 21-kcfs summer flows is what that chart means. Your rate...

Stas: For this yellow one right here. Is what Roy is saying right now?

McAllister: Now if you one that had minimum service or the 28 navigation service release from Gavins 28.5-kcfs, which is represented by the 28 as the last two digits; your rates will go up by about 2-3%.

Stas: A little less than 2%.

McAllister: Your electricity costs would go up by that much. If you would go with MCP or stay with the current Water Control Plan, they will change to zero.

Stas: Zero.

Hargrave: And just tell me if I'm being too simplistic here but the reason why the summer flows create that affect is you are holding the water back behind the dams; you are

not running it through the dams.

McAllister: Right here, Rose.

Stas: The real reason it's revenue impacting is because that's when it's most expensive to buy power and when you make the most money is you're selling it. That's really as simple as to put it because what happens, if you look at the market, the prices always go up in the middle of summer and in the middle of winter. Or the two peak flows. Do you want to add anything on that, Jim?

Okay, but I think that's a great question and that was if you were only going to base your decision on rates for hydropower. But like Roy has been saying for two days, there's water supply, cultural impacts, fish and wildlife things and that's when it gets difficult to figure out what's the best if you weigh 10 or 15 of these issues together. But Nick is just talking about one of them.

Hargrave: Right.

Hall: I was trying to follow that to see what the best (inaudible) would be for the tribes and whether the factors in each of those different questions...trying to consider...

McAllister: This was pretty straightforward and there could even be even a little more detailed analysis based on individual contracts which are all different. I don't want to

make more work for my colleague here, Mr. Jim Bach, but it is so very complicated because the charts have what 25-26 contracts different?

Bach: This right here is just that 60% (inaudible) you are getting some indirectly from the cooperative. So the rate increase of maybe 8% here really wouldn't be (inaudible) increase would be residential contracting. Probably be 2% or something.

Stas: Depending on how the contract is set up with the cooperative, right?

Bach: If you just look at wholesale power cost and do all that retail distribution process.

McAllister: This is that everything all lumped together; this is the wholesale cost only. It doesn't include the distribution from the cooperative. See these guys aren't utilities. This is delivered to the utilities. That's why we had the (inaudible) up there on the distribution.

Hall: So even though (inaudible). Even though we are on the right side of the bar chart, that's wholesale cost or whoever we partner with as an electrical coop. Their rates could increase.

McAllister: Right.

Hall: Would they be at that 100% load?

McAllister: Well, they could be. (Multiple voices.) Or they could be, it depends on where they are at here; if they are getting 70% of their load from WAPA, you have to look each individually then their rates go up—they also jump up, see. Depending on how much they get from WAPA.

Stas: This is the wholesale power cost right here.

Hall: Where are the coops in our area are they close Nebraska, Montana?

Stas: They are around (inaudible).

Hall: Oh, they're not...

Yellow (Inaudible.)

Bird:

Bach: The city of (inaudible), South Dakota. (Inaudible.)

Voice: Very, very few customers control these plans.

Hargrave: Do we have an idea because we are already being asked this question, when you

look at total number of customers, how many fall into each group?

McAllister: We have had that printed out; there was an email on that.

Stas: You just researched that for somebody.

McAllister: 100%...37% of Western's customers; 37% of those 260 customers that were on that one map. 100% of their power.

Stas: 30% of their customers are the coops or the utilities.

McAllister: On that map and those dots that are on that map.

Stas: Of those 260 dots, right?

McAllister: 37% of those get 100% of their power or (inaudible) hydropower. 30% of the customers of those dots get 70% of the power from Western; 26% or one fourth of those customers get 40% of their power and only 7% of those dots, now again, 7% they may be like the big utility like Omaha Public Power District that serves Omaha and eastern...

Yellow Those are (inaudible).

Bird:

McAllister: Right. Now it's not a sliver that they are buying; this is a percentage of their total load. Some of those guys are our biggest customers but it's only a small percent of their total load. So if you really want to dig into it, I have last year's annual report in this area of Pick-Sloan and they sent out each of the 260 customers and tells you last year how much power they bought.

One thing else that the email said and this was Darla. Darla would have been here today if it hadn't been for the plane being called down on the ground. She also said that the median customer and those are the 260 customer, the one that fits in the middle gets 60% of its power from hydropower. So tribes...median, yeah, you'd be kind of like a median customer there.

Hall: So we can still expect a rate increase then?

Stas: Well, rate increase depending on which alternative is selected both based on your allocation and whoever else you are contracting with for your delivery for your distribution. So it could be a double. Could be a double (inaudible).

Hall: How come (inaudible).

Yellow 100%

Bird:

Hall: Government's word. (Laughter)

McAllister: Well. Let me explain that again. I wanted to cover that, Chairman Hall. But what happened was there was a Catch 22 written into the Pick-Sloan Legislation. There really was mention about allocation to tribes but there was a Catch 22 that Western could only sell wholesale power to utilities. Up until the Energy Policy Act in '92, if you didn't have a utility we couldn't sell or allocate you power based on legislation. We are all good federal employees; one thing Congress does is pass a law; we've got to comply but sometimes the laws conflict when it's Endangered Species Act or navigation flood control. We've got federal employees trying to reconcile that sometimes but in the case of the allocations of the tribes it was a legislative deal we couldn't make the allocation until that exemption was given in the '92 legislation.

Hall: I thought it was twice we were supposed get free electricity.

McAllister: There is going to be...

Hall: Said in 1949 and said in 1992 or 1996 (inaudible) Joint Tribal Advisory Commission which led (inaudible) in 1992 Equitable Compensation Act again the government said because of the devastation (inaudible) given free electricity.

McAllister: I'm not aware of that.

Hall: It's in the Congressional Record.

McAllister: Okay. Anyway the legislation, up until the Energy Policy Act, we couldn't even make an allocation and then we did the EIS and this wasn't a non-controversial thing because we allocate all our power and if an allocation is made to the tribes, of course, it's coming from these other customers. So it's a start and maybe it's not adequate from your perspective but I think we are moving at least in the right direction as far as trying to get the benefits of that hydropower.

Now there is going to be again this post-2006 another opportunity to get some more but it's going to be incremental over time because if we impact...it's not going to be politically feasible to take a *whole* lot more from our customers who we've been serving in 40-50 years. To do it over time maybe and it will be much more amenable for planning purposes of supplemental power and other issues.

Hall: Well the tribes should have been in there 40-50 years ago.

Yellow They've been taking from us for 40-50 years, Nick.

Bird:

McAllister: Hey, I'm not disagreeing; I mean a volunteer I would have kind of.

Hall: For the total record, I would just like to know if that we do appreciate the 4% but

by the time 2006 does roll around we should have at least (multiple voices) 8%.

McAllister: Well, I guess that there will be another process is all I can say.

Hall: Based on the Government's promises to the Indian tribes. I just wanted to say that.

McAllister: I know we're good federal employees, we carry out whatever they tell us to do, Chairman Hall.

Hall: Just wanted to get on the record (inaudible). (Laughter.) (Multiple voices)

Stas: I understand, I understand. All right, the Summary—this is the bottom line. Increased costs a greater burden who knows what greater percentage of power from the federal resources. Because we have a zero sum gain, we don't have any process; we don't have any stockholders; our rates are completely determined by what it costs us to deliver the power, pay (inaudible) and our other legal obligations. Our rates are based on that. If we have less power to sell or if it costs us more than our purchase power that goes into our rates. That's the bottom line.

Voice: What if the tribes would approach you and you buy power from them versus let's say wind generation for one (inaudible).

Stas: We buy purchase power? Is that what you are saying if we are short on power and you have some power to sell us, we'd pay you the going market rate like we do anybody else. In other words, what ever the market is we pay that rate. Now, there might be some special deals, I think and I may be speaking out of turn here but there has been some in the President's Energy Plan some calls for trying to stimulate some things and renewals and such, there might be some pilot type deals or special deals. Jim, you want to talk about that?

But there's some possibility is what I'm saying but right now if you've got power to sell and we need power, we are going to pay the market rate and from whoever get moved to serve our firm power customers; we've got an obligation to keep their lights on. Really take that very seriously. A reliability of our system; the safety of our system and deliver the power that we've got contracted to delivery to everybody.

Any other questions? Chairman Hall, another question?

Hall: Well, I was just thinking—what was the answer on that on his question?

Stas: If there is power to sell...

Hall: (Inaudible.)

Stas: Okay, if there's power to sell, what I told the gentleman, I'm sorry I don't know your name. We'll pay the going market rate on when we need the power, if we buy power from any institute. Now, right now with most of our supplemental power there's some contracts been laid out with the Basin Cooperative and others and all that system's studies work and power marketing work is done in a separate group and in our organization. But there is some potential as (inaudible) growth increases that there may be additional need or if we have a severe drought that's another condition where we are buying lots of purchase power.

Hall: There will be probably an opportunity for us collect those tribes that are looking be a part of the energy solution to provide some power but obviously we want to have access to the transmission lines, too.

Stas: Sure, I understand.

Hall: And I'm hoping that current Bush administration is looking at...(inaudible).

Stas: Well, there is an energy policy and the Western Governors came out and, I'm not sure if you've seen that report, on a proposal to reinforce the grid for all the Western Governors signed it and there are some proposals on building new transmission lines. That's been out less than a month. That came out the very end of August.

Hall: I have another question. (Inaudible) first look at an analysis of all of this and how EIS the impact.

Stas: Only the hydropower portion.

Hall: With the various alternatives. What I was going to ask your recommendation for us tribes (inaudible) based on who know the tribes agreements today I'd be very much interested in cultural and historic preservation and all the wildlife protection and all that (inaudible) issues that we (inaudible)?

Stas: Well, let me give you something that's a little bit of a perspective from what I know about the policy and where we are. On the issue of native fishes, things of that nature our customers have been supporting research on the pallid sturgeon and reintroduction of the pallid sturgeon. We funded...we are members of Upper Missouri Task Group that prioritize and fund every year the most important projects for the pallid sturgeon. We figure we are benefiting from the river; we owe something back to the river. Our customers that we met with over time have supported our efforts to the degree we are doing this annually. So we feel that we've got some obligation to these species that have been there but we still want...we have that fiduciary responsibility to keep the rate as low as possible to our customers. As some of you may know the farm prices haven't been all that great. The REAs and coops need to keep their power down to keep the ag folks in business. So we are balancing that and you are asking for recommendations. I

know very little about the cultural resources except we have a memorandum agreement to work with Pemina Yellow Bird on (inaudible) Hills microwave sites there were some...we come up with an agreement to turn back that land once we are done. We'd been using that for a communication site and things of that nature but we are trying to do the best we can and still keep the cost of our power as low as possible. I don't know if that is a sufficient answer to your question. I'd like to recommend...

Hall: At some point in time all of us as people, tribal people, Federal people, private people and State people realize that the river is an endangered species clearly, I think, all the research shows the Missouri clearly is and there must be a balancing act for that somehow. This thing about we'll work on the (inaudible) we cannot afford to go either or—there must be a balancing act amongst all of us in this. That's why I think it's very important that WAPA as well take that into consideration (inaudible). Because these are the questions you've (inaudible).

Stas: I understand. I guess one important point on...we make requests and the Corps they are very good colleagues as far as trying to generate the power we need so that we don't get into the situation they got in California where the lights are going out and peoples lives are threatened or various things. But on the other hand they'll tell us if they get a flood downstream, you can't have any power. You go buy purchase power. See there are other issues there and it's happened in '93 where we generated very little, we were buying almost all purchase power. So the

decision on turning the valve on the river is, well, it's two entities, the Corps of Engineers and the Bureau of Reclamation basically but the Mainstem dams is the Corps of Engineers—the six Mainstem dams. So from that standpoint, yes, I think they considered us very well but there's other things that sometimes kick up your priorities and flood control is one of those issues when people are being flooded in '93. So I don't what...maybe Roy could answer that question better than I on how that works.

Hall: I was just merely suggesting that—it's a balancing philosophy I think that (inaudible) line up on either side of the issue that's not going to help anybody. It's trying to encourage the Federal agencies to bear that in mind. That you are going to be (inaudible).

McAllister: That's the way we view it, I think with everybody would align whether they would *like* to be, if you would have everybody in a circle, a square on both ends of a long line like you would be (inaudible) on a rope. The real answer if everybody is going to be happy somewhere in between. Can't be out there on that outer edge it's got to be somewhere in between. That's (inaudible) compromise.

Hall: And, Roy, I would add to another thought is that I think there's many private (inaudible) Federal (inaudible) State cooperatives don't realize there is a third sovereignty in this country and you've got to live with it. And the only (inaudible) world that has three sovereigns: Federal System, State System and Tribal

System—all three are the three sovereign tribal entities. Any times tribal entities is forgotten or we are classified as a group or another partner, we are not a group. According to the constitution we are a third sovereign; it's a legal (inaudible) responsibility. I merely say that just to comment (inaudible) but there were many of our customers that we provide power to that do not realize it. Don't like it when we cut 4% but it's too bad.

Stas: And we know that better than anybody. In fact I just want to also add on to that that I personally feel that we are making progress. And it may even not been enough that everybody thinks what's deserved but I think also the folks at the Corps and I've been working on this since 1991 and there's been lots of progress going on and I guess the better dialogs... And there's another point, I want to make one other point. There are some people that are on the West Coast and East Coast that are very envious of our power rates. In the 1980s the Reagan administration proposed either selling the power marketing administrations are charging the maximum market rate because there are people paying 13 cents, 15 cents a kilowatt hour up in that New England portion that was all white portion of the map I had and so there's pressure in Congress that actually passed the House but was defeated in the Senate to do away with the lower cost power for our part of the country. So I think that all of us can work together to keep the low cost power as a benefit of the hydro system and not get the squeeze with the excessive high power rates.

Now we are only a small part of that. There are lots of other utilities that serve customers but our rates have been very, very low and they are still very low; we are going to try to keep them as low as we can. There are a lot of pressures...

Hall: And that's a bipartisan issue.

Stas: Yes.

Hall: For us in this part of the country. We can all partner and support that.

Voice: What about when you talk about wind generation? Tribes going to be given preference on this are you mentioned the Western Governors signing on to increase...

Stas: The Western Governors proposed is some enhancements to the grid and that's the whole point of their report. And I think the basis of that was potential development and they didn't identify who is going to develop the energy but, in other words, getting the grid up to speed so that new energy sources, including renewables can be brought on line and if the tribes are a part in that, I'm sure that their input should be made as far as getting the grid to wherever they want a site—their power development activities. Whether it be wind, wind is probably very important resource in this part of the country.

Voice: We are ready to go with ours but we are just trying to look for ways to get onto the grid right now with our wind generation (inaudible).

Voice: That's the problem (inaudible).

Stas: What I was waiting to do, there are people in our organization in Billings headed up by Mr. Ed Webber that does all the system studies for proposals to bring energy onto the grid and they'll be glad to work with whoever is coming up with proposals to do that and I think we do have a special relationship with the tribes that we developed over sometime with the power allocation. So I'd sure like to see you benefit from the development of power.

Yes?

Yellow: I have a couple of questions for you. The (inaudible) that you had sign with us is with *all* the North Dakota sites.

Stas: Okay, all the North Dakota.

Yellow: All the North Dakota sites. And I have to say for comparison or whatever, that was a very pleasant negotiation and we carried out cooperatively; you've been very helpful and wanted to work with us as opposed say other people in the Corps. The association that we did with you took a couple of months; they took three

years.

Stas: We did the best we could.

Yellow I've got to ask you in your annual report. Where's do tribes appear? I'm looking
Bird: at the customer mix.

Stas: That's based on the 2000 power served to utilities and go ahead, Jim, you can explain that.

Bach: The (inaudible) a power allocation as of January 2001.

Yellow So we are not in here. Okay, great. Thank you.

Bird:

Voice: Is this something we are going to get annually?

Stas: Yes.

Voice: Who gets?

Stas: You will get it, now I've got to check on that. It goes to all of our customers; so I assume that they will get that. I will check that and make sure that you do—the tribes do get the annual report. Take that as a personal...make sure that happens

and if you are willing, sir, you can call me I've got a number. (Multiple voices.)

Hargrave: Okay, Chairman Hall, we can handle this maybe a couple of ways. We have one more presentation and I think, okay, Becky, if you want to go ahead and do your presentation and then we will open it up for discussion and comment by Chairman Hall.

Otto: My name is Becky Otto; I'm the archaeologist with the Omaha District Corps of Engineers. Rose and Russ and Rick are all at the regional office; I'm at the district.

(End of Tape 7)

Tape # 8

September 13, 2001 P.M. Becky Otto – U.S. Army Corps of Engineers

September 13, 2001 P.M. Tex Hall, Chairman, MHA Nation

Otto: Some of you and other projects and I am looking forward to working with all of you on this project.

One of the things I wanted to tell you is I've been peripherally involved with the Master (inaudible) and Phone Manual and I just wanted to give you a short slide

show on Section 106 of the National Historic Preservation Act and then I'll give you an update on what our district has been doing lately.

Yellow The district or your shop (inaudible); cultural resources?

Bird:

Otto: The district.

This is a brief outline of the Omaha District's Cultural Resources Program and our desire is to work together with tribes. We have had a fairly large district; we are responsible for kind of maintaining for the (noise) under our care.

Military land and then Corps actions related to off-project lands because regulatory permits like the Maple River Dam in southeastern North Dakota comes to my mind. We have stewardship responsibilities for cultural resources; we are directed to protect, preserve and manage sites for the benefit of generations to come. The key legislation for this is Section 106 of the National Historic Preservation Act of 1966 as amended.

This Section 106 directs a Federal agency to take into account the impact of an undertaking on sites that are either listed on or eligible for the National Register of Historic Places. It also requires consultation with the State Historic Preservation Office, the Tribal Historic Preservation Office and it encourages participation by the Advisory Council, which acts as a referee between the State and Federal

governments and the tribes and other interested parties. Anyone who identifies themselves as an interested party can participate.

We've got some major challenges in our district. There are actually over 4,000 sites within our district. Many hundreds of isolated finds which could be anything from a hay rake to a stone tool and there are about 6,000 or so land miles many of which are eroded.

Hall: Is that on...6,000 miles do you go all the way down to below St. Louis or, Becky, how far down?

Otto: Those are the shoreline miles around the reservoirs.

Hall: (Inaudible.)

Otto: No, not river miles.

Hall: Okay!

Otto: Just around each reservoir.

What is an undertaking? An undertaking is anytime the Federal Government spends money on a project, issues a license or permit for a project. Anytime the

Federal Government causes something to occur then you get involved with Historic Preservation Offices with the tribes and the State and look at whether or it is going to impact significant sites.

Environmental assessments can be part of the components process in this case it's an EIS or the Master Manual. Permit action, construction projects and any land transfer (inaudible) could also be in the (noise) (inaudible).

We are going to try to work on a new PA the (inaudible) agreement that we had with the State Historic Preservation Offices for the Master Manual needs to be updated. We'd like to include the tribes in a new (inaudible) agreement and we invite all of you to join together with us and put together some of the language, some language that needs to be in the new PA.

Yellow Are you talking about Galloway's PA? For (inaudible) South Dakota and

Bird: Nebraska. (Inaudible) letter of foreclosing?

Otto: Yes.

Yellow And you are including tribes?

Bird:

Otto: Right.

Yellow Well, shut my mouth!

Bird:

Otto: Okay, I thought I'd show you some pictures of archaeological sites that are eroding and have been stabilized. This is the Molstad earth lodge village on the Standing River Sioux Tribe. This site is a National Historic Landmark and has stabilized riprap.

This is the Whistling Elk site is a little bit downstream from Pierre, South Dakota and another earth lodge village that's been stabilized riprap. In order not to impact those sites, we put a layer of quilted fabric on first then a layer of soil and then the big trucks came dumped the rock but at that Whistling Elk site.

Another shot of the riprap. In this particular instance some of the vegetation has grown up and kind of camouflaged the riprap on this site as a result the stabilization.

It's rippling up again. This particular site is called the Howe's site and here we've got block (inaudible); it's a little bit harder to protect. But that's another site that definitely needs some help.

This is the Haven site in (inaudible) Town, North Dakota. The rock riprap here protects the site when the water get high (inaudible) photo. The Lake Oahe is quite low and the water isn't hitting the site.

This is Stoney Point, an earth lodge village on Big Bend and that site has also been stabilized.

In summary, all the Corps' actions must comply with Section 106. We've got (inaudible) responsibility over a large area and we realize there are many opportunities to work together and we look forward to working with tribes.

Just have a few other things to say. The operation of the Mainstem Dams is an undertaking. So it needs to comply with Section 106. It has the distinct potential to impact sites by raising and lowering the pool elevation.

We've been compiling a cultural resources database and we've got 90% completion on almost all the reservoirs with the exception of Lake Oahe, which is 50% complete. We haven't started on Lake Sakakawea yet and that database is available if anyone is interested.

(Inaudible) information is being used to do. Help us raise cultural resources (inaudible) plan.

So far we've got draft cultural resources (inaudible) plan for Gavins Point and Big Bend Reservoirs. Those should be coming out shortly for review by tribes; they give either council. We are beginning to contract for a cultural resources

(inaudible) plan for Lake Oahe.

Voice: Who did Gavins Point (inaudible)?

Otto: Gavins Point was done by Burns and McDonald.

In the past three years we have done about \$1.7 million of bank stabilization on cultural sites within the Omaha District. There are many more that need to be stabilized but that is what we've been able to budget for so far.

Yellow And, I'm sorry, that period of time for the record?

Bird:

Otto: Since 1999. I have a handout I'll pass it around.

Randy Behm who was the cultural resources program manager in my office has been consulting with the tribes to help establish a priority list of sites that tribes would like to see stabilized. We've had good response from some tribes; other tribes were reluctant to provide information.

And in conclusion, we'd like to work together with you to build a better program for the preservation and protection of the sites in our district. So far we've worked closely with Lower Brule Tribe, Cheyenne River Sioux Tribe. We're working together with the Fort Peck Tribes and we'd like to work together with all of you

to build a better means of protecting sites in the district.

The other thing I wanted to say is that consultation won't end in 2003 when the Master Manual comes out. I view it as an ongoing process and we've been working with Mary Lee Johns on five big projects in the Omaha District. She's been helping us with tribal consultation and now I'd like to throw it open to questions, if anybody has any.

I've got a handout I'd like passed around.

Yellow Can we get a handout for the (inaudible), too?

Bird:

Otto: Sure. (Multiple voices, inaudible.)

The question was how did we acquire the data for the database? There are several ways. We used the site forms and the site updates so whenever someone visits a site they generally do an update form. There's also cultural resource inventory reports that have been done over the years and so it's two. So each site will have all the data that's available from those reports.

Yellow Are you the only one that has that, Becky?

Bird:

Otto: No, was there some hanging around?

Yellow (Inaudible) last three years?

Bird:

Otto: That is a handout of all the bank stabilizations that's been conducted within the Omaha District.

Yellow What's your total?

Bird:

Otto: Okay, I didn't total the whole thing up but since 1999 we have spent in excess of \$1.7 million on rock.

Yellow I have another one, where did I get that? This table bank stabilization effort for
Bird: the professional archaeologist (inaudible) in 1978? Fifteen sites all toll, 15 sites since 1978 and Corps funded a total of \$2,061,000.

Otto: When was that?

Yellow I don't know but there's on two separate years you didn't spend any money at all
Bird: but you estimated the value of volunteer service at \$15,000. Well, do you remember this (inaudible)?

Otto: Yes.

Yellow Then it says...the question I have is that 1999-2000 (inaudible) village. (Inaudible)

Bird: expenditures were \$96,000.

Otto: That would be rock.

Yellow And so that's a generous spending? Mary Lee Johns at Cheyenne River;

Bird: (inaudible). So is Mobridge in here (inaudible)?

Otto: It shouldn't.

Yellow I see them here but I don't know if it's the same thing. Maybe I should visit with

Bird: you about the difference between (inaudible).

Otto: Sure.

Yellow This only (inaudible) spending (inaudible).

Bird:

Otto: Okay, I didn't total up the whole column; I just wanted...we were only able to do what we get budgeted.

Yellow Yeah, that's kind of where (inaudible). So since 1978 you've only had just a little

Bird: over \$2 million or \$2.5 million dollars of that to spend on site stabilization. How do you get that money? How's that allocated to you to the department?

Otto: We put a line item in the Corps budget.

Yellow Who's we?

Bird:

Otto: The district office.

Yellow Unhuh!

Bird:

Otto: And then it goes before all the other districts division chiefs and then it's decided what the priorities are.

Yellow Okay.

Bird:

Otto: Rewinding generators on the Mainstem Dams get a higher priority.

Yellow Isn't the Division Chief the same as your Colonel?

Bird:

Otto: No. No.

Yellow (Inaudible) administrative person? In Omaha who's the Division Chief?

Bird:

Otto: Carl (inaudible-Name); (inaudible).

Yellow Van Cooper?

Bird:

Otto: Van Cooper is...okay, the Colonel is akin to a president; Van Cooper is akin to a vice-president.

Yellow Oh, division chief are?

Bird:

Otto: Are under...

Yellow Cabnica?

Bird:

McAllister: Yeah.

Otto: That would be a good analysis. (Laughter.)

Yellow Follow the mother here; follow the mother. (Inaudible.) Okay, so the division

Bird: chiefs get together and, depending on what the Corps needs, allocations are made.

And so they let you guys get a chance to come in and say, I mean you guys are

shocked, the archeologists, get a chance to come in and say what you need. What

do you ask for and based on what? My question on these amounts that are

allocated, what's your criteria? Is it archaeological value of the sites that these are

all sites have high archaeological value; that's why these sites get stabilized? Or is

it because of their status, they're endangered status? If they are wicked, endangered then you are going to get in there and fight for proper stabilization.

Otto: Right. These sites are all either on National Register or...

Yellow Okay, so they are high archaeological value.

Bird:

Otto: Or eligible for the National Register.

Yellow Okay, so high archaeological value, right?

Bird:

Otto: And currently over...

Yellow Currently you are (inaudible) with no differentiation in the battle for that erosion?

Bird: Are these wicked, endangered or just eroding, how do you choose them over other sites?

Otto: We had a couple of different symposiums and then recently we consulted with tribes.

Yellow Recently in the last ten months that Randy Behm was in his job, prior to that you

Bird: guys didn't...

Otto: No, actually...

Yellow No, no, no.

Bird:

Otto: Actually there is a little category down there that describes tribal consultation about in the middle of the...

Yellow Recently consulted the tribe could help identify... But let's these budgets here the

Bird: ones in the handout that you gave, those here. How did you guys decide to fund those sites in particular since 1978?

Otto: National Register or (inaudible). And then by talking to tribes.

Yellow And when did talking to tribes start?

Bird:

Otto: Okay, I don't have that in front of me.

Yellow Oh, yeah, I have them.

Bird:

Otto: In 1980, 1999 and (inaudible) March of '99 (inaudible).

Yellow May of '98. (Multiple voices, inaudible.) For the tribes, from '98 on. Because

Bird: normally you guys can't and you brought us that list of endangered sites; you guys

already had the list yet you brought to (inaudible). We didn't have any input, you just said, Sandy, hey, these are the endangered sites; here they are, we're working on them. That's not consultation. All right.

And so then you guys go to your division chief and say we have all these sites based on this criteria, then what happens?

Otto: Before we do that we'd have to fill out what is called an (inaudible) sign a routine (inaudible) request.

Yellow Ah! (Inaudible.)

Bird:

Moore: Right. Those are sent off to George Wolfe in the (inaudible), you know the people that run the (inaudible). Ordered that we (inaudible) and then they have the opportunity to review (inaudible) ordered and then the districts come together and discuss which things get buttoned.

Moore: A little ranking process that they go through in the district, bring in the engineering division; plans division; operations division all get together and start ranking everything in the (inaudible) budget. Is what they do.

Yellow They rank it and then what did you say O&M budget?

Bird:

Moore: Operations and maintenance budget go in and budget proposals for two years out. They are putting that budget together.

Yellow Unhuh!

Bird:

Moore: Put that budget together and after the districts put the budget together; they send it to the division; division takes a look at it and (inaudible) do a balancing between five districts now versus two districts several years ago. You look at everything; what has a higher priority whether it's maybe we are looking at some problems with navigation locks, dredging, dams (inaudible); all these are competing for the dollars and then they'll put their...they'll say okay so rank it. Do a ranking and then from there it goes into headquarters. Headquarters takes a look at it; headquarters of the Corps of Engineers takes a look at them. They go through like a ranking process also looking at the budget and balancing that against *all* the divisions.

Then the headquarters of the Corps of Engineers then submit it to OMB. OMB then they have another opportunity to rank it (inaudible) again. So from there it becomes part of the Presidential Budget and this is his selection he submits to Congress. It could fall out in Congress and Presidential negotiation it could fall out then. So it's a long, long way with so many places where these things could fall out if you put it in as an ONWR line item. Specific sites do this amount of work. It could get chopped along all those places.

Now if it does get lost in those places that's where tribes can be very helpful in funding. They can say we've got this priority list of cultural resource sites that are highly eroded, wicked, eroded ; they are going to lose them. Congress we would like to have you help in funding those sites; protect those sites.

Yellow Wonder if the Commander places a really high priority on sites stabilization and
Bird: the preservation of sacred and cultural sites?

Moore: Right?

Yellow What happens then? How can then, during the shuffle how does that play out?

Bird:

Moore: This happens also. We get our budget back down there and we are going along with the budget and all of a sudden they have some slippage. The contract doesn't get awarded. We have X number of dollars sitting there that needs to be spent this year; where can we...Commander then has discretionary authority. He has to sit there and he's got to look at, okay, the engineering, do they need it, operations need it; planning need it. Who needs that money the worst? What is the priority? Then he makes the decision to move that money to whatever he feels is the highest priority. It could be a cultural resource site. Or it could be the new OCB, oral circuit breaker, for a particular power plant. Or it could be whatever!

Yellow You are saying the planners only realize (inaudible) within his district?

Bird:

Moore: His what?

Yellow Within his district?

Bird:

Moore: He has discretionary authority, yeah, within his district. If there's money that has been identified as slippage. This contract is not going to get awarded or let this particular year and we have this amount of moving that money that we have to expend. We need to expend. Now where am I going to put it?

Hall: Based on the process this goes to, apparently these tend to fall through the cracks by (inaudible) \$40 million backlog.

Moore: We have a larger backlog than that. Yeah, we've been identified somewhere over \$110 million backlog in the Omaha District. Then the magnitude goes out for our districts and it's in the *billions* of dollars.

Hall: (Inaudible) cultural resources?

Otto: Well, I think he was talking about the whole.

Hall: I'm talking about cultural resources.

Moore: I don't know what the backlog is for cultural resources for a dollar amount. That's whatever all the priority sites are that that have been identified I guess if they are not done then it's a backlog. It's not with them.

McAllister Rick, aren't there rules about at what level of the budget you could put different types of projects.

Moore: Right.

McAllister: So add another factor (multiple voices, inaudible).

Moore: There's a budget matrix that has very specific verbiage in that says if it's baseline it's like level one. Baseline means you do this every five years, you to pick your site salaries. Then you go to level two, it's imperative that it be done. If it isn't done, then we'll have failure at some point in time. Now if you go to level three is, yeah, it's important but it's not quite that important if it doesn't get funded; it doesn't have...not going to be catastrophic in nature so to speak.

Yellow So on that budget matrix when say a Congressman goes to work and gets you \$2.8
Bird: million to do shoreline stabilization and the \$2.8 million doesn't get spent for shoreline stabilization; what's going on there? That was back in the late '80s and ever since (inaudible) with Senator Connors and he told us he got \$2.8 million for

shoreline stabilization for all our districts but (inaudible). How did that happen?

Moore: I don't know.

Yellow From your comments we have a lot of influence when we go to Congress;

Bird:

Moore: Yeah.

Yellow Sure we do have but...

Bird:

Moore: You do then. I don't know; I don't know the particulars about that, Pemina, I wish I did. Can't answer it but...

Hall: To (inaudible). (Laughter.) (Multiple voices.)

Moore: I don't know what happened; I...

Yellow Well, Becky, you've been there a long time. What happened to that \$2.8 million?

Bird:

Otto: I'm not familiar with that at all.

Yellow Aah, okay.

Bird:

Otto: When was that?

Yellow Late '80s. Senator Conners told us that. We went there to say we need some
Bird: money for shoreline stabilization to protect out sites. (Inaudible); he got mad, he
said, "I got them money—\$2.8 million. If it's not all there it's spent on something
else."

Hall: It might behoove the Corps to respond to that in writing, addressed to that effect.
So that way you have the Chairman of Budget Committee confirm (inaudible). He
did make that comment.

Moore: Yeah. We'd have to go back, look at the record and research. I don't know.

Yellow Maybe you ought to do that because you could do that, Rick.

Bird:

Hall: It would be very important.

Moore: Okay, I'll have to ask the district office to do that. Different office. (Multiple
voices, inaudible.)

Yellow On the record now, you (inaudible) the book. It's on the record. (Multiple voices.)

Bird:

Hargrave: That's all of the presentations we have and I'm not quite sure...we certainly want

to open it up for discussion. Chairman Hall did you have any summary comments you wanted to make or...

Hall: I could make a few comments (inaudible). I'd just like to focus everybody in the Corps and this Federal agency's attention to the policy agreement. Department of Defense (inaudible) policy was passed October 1998. I really appreciate this policy because it talks about trust responsibilities.

(End of Side 1, Tape 8)

Hall: Fiftieth anniversary of our Treaty of 1851 and basically said it's a legal obligation of the United States to the tribes and referenced the other third sovereign in this country. This is a good policy and it deals with establishing senior level tribal liaison which I believe is Chick Spence; I hope Chick is all right.

McAllister: Yeah, he is.

Hargrave: Yeah, he is.

Hall: I heard he was close so I really appreciate hearing that because I think he's working for the benefit of all the tribes (inaudible) and in that regard (inaudible) that relationship. And also talks about Indian (inaudible) preference item.

Okay, so my first point is my Congressman (inaudible). My first point on the Randy Behm's position and I hope that his research with Native American prior to this meeting was a very critical position. At the end of the day it's going to get down to finding we need major funding this issue of cultural resources following your presentation today. And so I think there needs to be a...and I don't know how the Corps advertises for positions but I know that many of the advertisements are not...the tribes are not seeing those perhaps. So I would offer like *Indian Country Today* is a national Indian newspaper. That would be a very appropriate manner for tribes to advertise for positions. You advertise now?

Hargrave: Umhuh.

Hall: Okay, I would recommend that we advertise again through that and that's one...

Voice: When?

Hall: That's one point and the second point is the joint tribal commission. Again I would recommend for the record that we establish a joint commission because I think that that would show an example of tribes and Federal Government, in this case the Army Corps of Engineers, establishing a working relationship for a formal partner and we establish (inaudible) the real benefit. If you work on the budget, we have a National Tribal EIA Budget Advisory Council. We work on the budget, as it's hard for the Feds to lobby so if we are working together we can do

that. Also it's an ongoing consultation, because consultation is always a Catch 22.

And thirdly, I will recommend that (inaudible) point that the Advisory Joint Commission include all the tribes along the Missouri (inaudible). All the tribes along it and clearly I would also like the tribes that represented here put a document together for us to review as tribes we are going to have a meeting probably in October, next month, at the Great Plains. The Great Plains (inaudible) pass a formal resolution with the attached criteria and I would offer a delegate also an alternate. So that way the tribes always has two delegates at the table, one going and one in case someone can't make it and then, of course, a budget (inaudible), I was on for two years, at least two years and at the end of the day (inaudible) budgeting and there's a lot of hopefully when this terrorist attack, of course, it's getting a lot of attention in Congress but things will have to go back to normal and, of course, (inaudible) minor share of a lot of this stuff.

But also with Lewis and Clark there a (inaudible) sign that the Corps is going to get a lot of money for various projects but here we focus our attention on restoration and preservation. (Inaudible) this was our opportunity to do that. So again a Joint Commission could really do that. And then we'd send that out to the Corps in terms of the resolution, the document establishment and budget we would send on to the Corps.

Thirdly, would be the consultation; clearly this is a critical issue for all tribes. I

would encourage each of the tribal people here that we make sure that when we leave the tribal councils and chairmen are fully aware of what happened today and that everybody is kept up to speed because this is a government-to-government issue. As we meet and move toward the public hearings that, I think, some tribes are asking for public hearing at their particular reservation—at their tribal nation, I should say, tribal nation.

That, I think, would be critical that the leadership is involved especially because this is on its track. The EIS and Master Manual is on its own track and it's going to go. We really need to stay engaged here. It's critical that tribes stay engaged. Offer that the Corps write a letter to each of the tribal chairman and councils. The Chairman can talk to each council. Or (inaudible) councils and on this issue of consultation, meeting with the Corps, I like what you said about having these hearings and have individual tribal meeting and then, of course, have the (inaudible) hearing on the Master Manual and EIS and all that. So again it's critical that the tribes leadership is aware of it.

Finally, I'll just say that as we (inaudible) to the Corps, as we look and move past the hearings and all that I think there is going to be some opportunities and tribes want to look at monitoring and co-energy some of these activities because with the Lewis and Clark they expect a lot of people and there *is* a lot of people coming right now and it's really hard for the Corps to manage it and monitor it. It's probably (inaudible) sites.

I think it's best that if the tribes would want to work out an agreement with the Corps on co-managing or monitoring the shoreline, protection of the cultural and sacred sites, we work out that mechanism. Of course, it's a budgetary issue as well, but the budgetary issue, I think, shouldn't stand in the way of prohibiting the Corps of wanting to work with the tribes in doing that because what could happen if we don't do that. There could be a lot of potential negativity where the tribes would not want to celebrate Lewis and Clark because of the increased amount of visitors that come in and with that you are going to have increased looting and so on and so forth. So I think if we do this and this is all in a real tight time block, but we still have time to do these things.

So I guess that's kind of outside maybe unless it could be included in a public hearing. Maybe it's in the tribal consultation individually, that's where some of the things could be addressed and I would say that I would offer that that be set aside during these times. We look at those tribes that want to do that and I know there are some tribes who don't want to do it again and want to get into tourism do. And some tribes who really do, so it's an individual tribal consultative issue. Those are the things that I would offer you.

And again I appreciate all the Corps representatives being here and all the tribe's people; this is a very important meeting. It's an expression of our sovereignty that we are here. Never take that too lightly because 150 years ago (inaudible). That

Treaty is why we are here; that's why we are in the United States Constitution and that's why the Corps has the trust responsibility and that's why we have a Federal policy that we have to follow. So it's critical that we all work towards that partnership and get some tasks accomplished in the next 24 months (inaudible) I think it also brings opportunities. Thank you.

Hargrave: We also, I understand, have an Elder here who would like to make some comments. Sir.

Elder: I'm known from Elder but I'm 62 years old and I guess I lived 62 years now and I always tell my relatives that I've only got 38 more years to live. (Chuckle.) So (inaudible) soon but I've been doing but it really doesn't bother me. I'm Ron Littleall and I'm from the Fort Berthold Reservation and I'm affiliated with the Mandan, Hidatsa and Arikara and I'm also part of the Atoka and Lakota people. Part of my family comes from down at Standing Rock. I have relatives over in Pine Ridge and Rosebud, Lower Brule, Fort Pontee, up in Fort Peck, two other, Spirit Lake, Sisseton and then my native family comes from the Three Affiliated Tribes.

I do have some type of education. I finished college with a BS degree in elementary education. I was in the United States military from 1963-1968. Served in Europe and in Vietnam and after getting out of the service I followed a dream and that dream is what brings me here today. That is dream is to allow me

to say what I am going to say.

It's very hard in my capacity, I'm not a political person; I don't work for anybody; I sort of kind of do my own thing. And there's a Creator that the Indian people look to and this Creator made (inaudible) possible, he made (inaudible) creation and evolution. Creation is what we deal with today; evolution is what we face. I don't agree with this EIS in any way; I don't agree with lot of the things the Corps of Engineers does because they pulled my leg too many times. Don't agree with a lot of the science people in many of the things I do because they also have lied and they also have tried to put me down. Put me in places where I've not appreciated...I don't appreciate being.

So sitting back here and listening to everything I don't know what I'll do when I say but one of the basic things is that I don't believe that the EIS is going to be complete until so many tribes get some of their spiritual leaders involved and we get down to the earth and contact this earth. The reason why I say that is because I went through Maple river project that the Corps of Engineers is involved in. They have all of their EIS; all of their archaeologists and everybody doing their thing but I went there and it took me two days to walk the whole area. Pemina and some others in doing that, in walking, I had 76 wood ticks on me. (Chuckle.) That's even downstairs. I got down on the ground and I listened to the ground; I listened to the wind; I listened to the water, to the trees, everything, nature and then I went and I told Pemina what was what. What scientist can't find, I found it. All I had

to do was pray to that Creator and ask him to utilize my body (inaudible) machine (inaudible) wants to find out if there's any graves in here. They couldn't find anything. But when I went and sat on the ground and cried and pleaded; I found graves—unmarked graves under that ground. And I told Pemina about certain kinds of fumes that were very, very significant in the trees. I walked along the water and I said I remember that in my time as a young boy going down to the Missouri River walking my mother would look around and she'd find certain kinds of roots, wild potatoes, wild plants, different kinds of teas, she'd find leaves of different kinds. I told Pemina there was pruits down there that no longer exists. I asked Pemina have you ever heard of or find out from people have you ever heard of this type of plant and I will mention it. Nobody that today exists knows about it and that's why she was asking that question of you. I ask, I told her when spirits talk to me through the wind, through the trees I relate words to her. I told her to find out what these words mean and she found out what certain words meant was that the ground, lay down onto the ground the original ground, there's people living there. Dirt blew in another group of people lived there; dirt blew in and another group of people lived there.

My uncle was talking about that ground washing out. I was invited to Fort Thompson. George Ironshoe, another relative and myself, we told those people there were three villages, two different graveyards and told them what kinds of people they (inaudible).

In doing these types of things relating to our people, our Indian people, some of us here we can't write proportionally I write everything I know, I write it down. I have two complete reports back there that I did EIS individual spiritual oxidation and down (inaudible) contact of what you guys are talking about on the Environmental Impact Statement. I wrote them for two different reaches. So I don't believe that the EIS can be complete without some of the Indian people going back and getting their spirits involved talking to this ground; they're still sacred and still connected with us.

I don't really agree with a lot of the scientists. The reason why is that scientists said we come here from Asia, we didn't. Been here over a billion years. Mandan people know the name of that (inaudible). (Inaudible.) Mandan's they say (inaudible). They know that. They have names like Three Horns, Three Hard Horns. Today we found out that (inaudible). (Inaudible) that's (inaudible) all kinds of ancient names so that's why I don't agree with the scientists; I believe that we came from a place that we call Garden (inaudible) and I believe that we went north and then as we went south the people were separated. Some were told they needed to go out (inaudible) some were told to make rock circles; some were told to make mounds; some were told (inaudible).

The Mandan people went way down south in the place called (inaudible). And when they got to that destination a fisherman came out of the water. When he came out of the water he made a noise, "Cuh, cu." He came out again, "Cuh, cu."

So these Mandan's said (inaudible). (Inaudible) have come to the end. And they turn around so we talk about old times (inaudible) Indians, always refer to (inaudible). They stopped at a place called Brazil; it's close to Biarritz, Brazil (inaudible) Wanaque. (Inaudible) Wanaque. Turning back to our home, we know that they came on. We know about two or three (inaudible). These are Sioux tribes, Mandan's so that's why I don't believe in what the (inaudible). Science work.

So I want to tell you guys is that why I don't agree with this EIS . I want to have Becky walk with me 6,000 miles around all of those dams...all of the lakes and I want to touch everyone of those sites she's talking about. Because I already know down there in Fort Thompson that there is a recent burial that's an ancient village (inaudible) ancient village underground; I know that for a fact.

So that's what I want to say to you people is that it's hard for a person like me, you know, I've a lot of hatred in myself. You are not supposed to feel that way but I grew up as a little boy playing along the river and the Corps of Engineers came to my playground there took all my food away, took all my lumber. One of the comments that was made here about electricity. The reason why the (inaudible) electricity is because we all lived log houses. We didn't have any TVs (inaudible) pre-electricity. (Chuckle.)

And you know what, some of those poor people believed us and they went on

about TVs couldn't plug it in anywhere in the hall. You've heard that, some of you Indians, you've heard that.

And so listen to us. EIS Environmental Impact Statement should not be considered complete until we have not a consultation but a connection with somebody that has some spiritual values. We have four (inaudible); four, that's the lowest value we have. The highest value that we go by is seven. If you have one down here then you talk to an individual like me. That's a one. And when you go to four you are talking about something more powerful. You are talking about the wind; you are talking about the air; you are talking about the grass and the earth. You are talking about other things; when you go to seven you are talking about laws. So...thank you.

Hargrave: I'll just open things up for questions here in a minute, but I kind of wanted to just follow-up on what Tex said a minute ago.

In terms of where we go from here, we kind of talked about it yesterday. I think for us to leave this meeting and just send another letter off to the Tribal Chairman is probably not the answer. When we go back, in addition to a letter, I think we are going to make personal contact, which is all the tribes represented here with regards to the consultation. So in addition to a letter, we need to go back and *really* follow-up on this in terms of the consultation and, in particular, the public workshops and the tribal workshops and hearings coming up that we really need to

get with the tribes on the... We heard from Cheyenne River Sioux Tribes they would like a workshop and hearing and certainly that is open to all the tribes and we will make personal contact in addition to the consultations but also relative to workshops.

Yellow Bird: How do I (inaudible) not so much about...we'll have some remarks too about where we'll go from here but in the 16 years that I as an individual have been working with Federal agencies like Army Corps, WAPA, National Park Service, whoever it has been, we always know that things went better when learning was a two-way street. You know, it is really important to say that in light of what my dear uncle back there shared. All of these days we've been here, we've been listening to the values that *you guys* placed on what's our world, our people's *homes* is the Missouri River and that these individuals not from our homes came here and placed a different value on everything—on the land, on the water, on our people—imposed a different value, okay?

And I'm hoping that everybody really took to heart what my dear uncle said because he's trying to tell you what *our* values is, okay? And when we can do that we sat and listened, we heard your guys, we didn't all turn to (inaudible), I know I didn't, when we heard it. Now it's really tantamount that you guys understand and hear *our* values, you see. When you can do that then things are going to go better.

So you say, "Where do we go from here?" Yesterday you said whatever you tribes

want, okay? We want you to listen to these good people like this who tell you what our values are, okay? They may be as confusing to you as yours are us but you've got to try and listen. Because then you'll understand why we're in here, *I* all these people (inaudible), why I'm always getting into your face. People like me are always getting mad at the Army Corps and if they get defensive about that or saying, "I wasn't here when that was done." You've got to listen. This means everything to us. Everything, what he said. That's why we are all sitting here, okay? If you (inaudible) I just feel the need to find it out based on the many long years of experience that we have had our North Dakota Tribes and South Dakota, too. Had a world of Federal agencies sometimes we talk and talk and talk to people—nothing changes. They don't get it. They'll get it! But *each time* we sit down with you guys we try again and again and again. Need to keep trying to explain our culture, our values, our beliefs to you because you guys, the U.S. Army has put you in charge of "managing" our river, our resources so we have to work with you in order for that to happen we really need you to understand us. We really need your guys to get it.

I just wanted to emphasize what this, my dear uncle, (inaudible) are *precious* to us. I just wanted to tell you, I wanted to emphasize that because if you understand it everything will go real good between us. If you don't, the frustration will mount and we will just continue having problems.

That's all I have to say about that except if we could please take a quick break and

then we come back. Go to work; we go from here?

Hargrave: Okay, we were going to open things up first.

Yellow You (inaudible) and then take a break.

Bird:

Hargrave: I mean unless folks want a break.

Yellow Ooh!

Bird:

Hargrave: You guys want a break?

Yellow I'm going to take a break; you guys (inaudible).

Bird:

Hargrave: Okay, Rick?

Voice: Kind of basic question was (inaudible). (Noises) Like a zero on the summary of the impacts? You with me? Out of the modified version (inaudible) some difference...unbalancing of (inaudible)?

McAllister: It's several factors, one is the unbalancing that does change things in the non-drought years and typically they unbalance...

Voice: Okay, the non-drought...

McAllister: Also the non... real high (inaudible) years like 1997 where you just get so much water to move you not worried about what water is where, just trying to get it through the system and on out. Typically unbalancing would occur when you have not a lot of water coming into the system, it's kind of an average or in the middle type situation.

Voice: (Inaudible.)

McAllister: Yeah, (inaudible).

Voice: The other one is (inaudible).

McAllister: Well, there's also the droughts are in conservation and that causes differences too. Lake levels are different elevation so hydropower, keep the lakes up higher and get more hydropower.

Voice: Situation (inaudible).

(End of Tape 8)

Tape # 9

September 13, 2001 P.M. Closing – U.S. Army Corps of Engineers

September 13, 2001 P.M. Tex Hall, Chairman, MHA Nation

McAllister: Balance but let's a drought starts the year that Fort Peck has gone. (Inaudible) already starts the down three feet, the others are all whether four feet or (inaudible) come on down. Where it's supposed to be. So the drought starts and so initially the lakes are going to drop all down together and so you are still going to be lower than the (inaudible) lake. And so it depends on how the alternative...what year you start impacting a job starts impacting (inaudible) down until you are unbalancing or balancing the system. (Inaudible) happen the same year because unbalancing starts when storage of waste reaches a certain level at each one of the lakes. They are, as soon as you hit that trigger point in one of the lakes then you stop unbalancing.

So it depends on each run it might be unique to where you started. So if you started with what may be unbalancing one alternative, that lake may be lower throughout the whole drought because you never quite completely get back to balances, remember when we still try to unbalance...it's not really unbalanced but you've got power you are trying to move through and you try to keep in place...

Moore: We've got six lakes and we could have a drought in Montana and not have one

McAllister: But we would still try to balance the effects of that among the lakes but at certain points during the year it may not be truly in balance. Say you've lost 20% of your storage...

Voice: The reason we talked about that (inaudible). Now the Gavins Point alternatives. You know they get (inaudible). When we first (inaudible) navigation of (inaudible) one point. But once you get into the alternatives some say alternatives (inaudible) navigation could affect them up to 80%. That's almost the alternative that you described. Because there's no way that anybody that's on the stretch of the river can pick an alternative (inaudible).

Hargrave: Unless Congress says Corps don't support navigation anymore or propose (inaudible) scenario (inaudible) navigation now. That can have...

Hall: Hydropower (inaudible). Anyway, this one on this (inaudible)...

Voice: There's one on this 2028 (inaudible) some of the alternatives (inaudible). There's one where's there's 2028 (inaudible).

McAllister: In 1994 we put out a Draft EIS and it had a spring rise of 20-kcfs so that could be part of where you from. It had kind of a *longer* spring rise. It was 45-days long or no it was 90-days long that one but it also (inaudible) the minimum service later in the year and tend to stay down (inaudible). Yeah, we have alternatives that did

have some of those same numbers.

Voice: Is there a (inaudible) alternative (inaudible); do you have or did you have (inaudible)?

Hargrave: Is there a preferred alternative?

McAllister: No. What we are going to talk about is the full Environmental Impact Statement process is that if one were to, say you may change the Gavins Point Dam, you have several ways to do it. You kind of go to what the U.S. Fish and Wildlife Service has said. And then they talk about going with the middle of the range. We are saying well, if they give you a range to go to, maybe you might go to the smallest change from how we currently operate. Start there then over time if you needed to or you got new information you might expand on out and put up, for example, the options we have there, we have an FCP with no spring rise and if we have to put a spring rise out you might start with 15 instead of 20. Start at the bottom of the range and work your way up if you have data that supports putting a higher spring rise out. Go to where the changes are the least (inaudible). So if you look at that hydrograph that shows the white line on it and the other lines on it, you might go to where the white line is but it's the smallest change from how we currently operate. Might be GP1528 instead of those options.

Voice: That's due in large (inaudible) on the lake (inaudible) 2028 (inaudible) one or two

percent changes that's a positive affect. I always just look at (inaudible) 1528, I don't know (inaudible) 2021 and 1521 they're the ones that have navigation (inaudible .

Hargrave: We are considering, just so you kind of know those GP alternatives. We are giving coverage under the National Environmental Policy Act (NEPA) for the full range so that we could start as high as 20 go as low as 21 on the low summer flows. So we are getting full NEPA coverage to do that if one of those alternatives were selected, we would probably pick a starting point and then go from there but we are giving coverage to move up and down. If a Gavins Point alternative were selected.

Voice: How are you going to get earlier comments (inaudible)? Wondering, you know, if Mni Sose writes comments and then the tribes, if Fort Peck does and then the States and then (inaudible). You know all these folks, how are we going to weigh these comments?

Hargrave: Okay, first of all, it's not a vote and we are making that real clear to folks. It's not a vote.

McAllister: (Inaudible) rivers, for example, (inaudible)

Hargrave: *Thousands* of emails.

McAllister: We'd have thousands of votes for certain alternatives. That's not fair.

Hargrave: What we are encouraging folks to do and of course, the tribes that's a unique gap. So for the little bit different and I'm not the decision-maker who's ultimately going to weigh all of this but I would (inaudible). You know the tribes certainly have a special status even above that of the States. But one of the things that I know the Corps will be looking hard at is when these projects were authorized Congress said you are going to operate them for these purposes and I know the Corps' going to be looking at we still have to serve all those purposes. The Corps is also going to be saying well, that's ready, we have to comply with the Endangered Species Act and the environmental laws. So to think that we are going to have an alternative ultimately for what's in here is going to make everybody happy—it won't! This is going to be (inaudible) either way. But in terms of the comments, what we are encouraging folks to do is—it's not volume on comment—it's the contents that count. So when we get these two-line letters that say, "We don't want the spring rise," or two-line letters that say, "End navigation." They don't give us a lot of...so one of the reasons why we are here today and why we are doing all these workshops and what we want are good things that give us some real food for thought on which the tribes go. That's what we are seeking.

Hall: (Inaudible) my question is (inaudible) tribes, if they get a benefit from it (inaudible) population (inaudible) say at Gavins Point (inaudible). I think what you're talking about is in the whole scheme of the thing is the level of (inaudible)?

Hargrave: Level of the lake?

Hall: Level of the lake (inaudible) that's what you're talking about (inaudible).
(Inaudible) another alternative maybe we have (inaudible) under operations
(inaudible). Talking about an area that was (inaudible).

McAllister: Well, one thing that's important is that if you *don't* express your opinions then no one knows what they are and then you've lost. You need to definitely take time to express your opinion and I would say secondly, not only express your opinion to us but there will be other people out there with various forms that will be trying to see if there is some sort of compromise position and maybe like Missouri River Basin Association that may be trying to do it. It may be the Missouri Natural Resources Committee having a meeting where they are talking about trying to find some sort of compromise position; that there may be the State of North Dakota may have some meetings where they have fellow constituents to come in and talk about this and tell us what we should tell the Corps.

What I'm saying is make sure you have your opinions be well known throughout the area and participate in as many different activities as you can undertake and if you can't make sure that you let someone else know what your position is so they can share that with whatever institute is out there. Because there's going to be...not only is the Corps going to sit down and we are going to scratch out head in

the office; we are going to be looking and listening to is there some maybe some (inaudible); everybody is kind of...they don't really like but they are not going to sit there and fight it.

It may not be GP1528, it may be GP2028. Whatever we see that there is some sort of consensus building around—that might be where we end up going. And the feedback that we will get will be from individuals ,it will be from large groups, it will be from large meeting, from individual meeting with each tribe and so the more we hear the same thing popping up at all these different meetings that's maybe telling us that there's some sort a common thread that everybody kind of agrees upon. That's going to really help a lot. That's one thing we said before as we go through and try to pick a third alternative for this Revised Draft EIS (RDEIS) is that we are going to listen to those things and probably pick something that has a lot of support behind us.

Hargrave: One thing, I think too that you can't rule here and truly when the Corps views itself as the honest broker here, we...you can tell there's a lot (inaudible) in the air here. You know, but there is something called politics out there. We certainly don't let it influence our study or any of the technical analysis or anything like that. But if you pretend it's not there you are burying your head. And ultimately the solution here make up (inaudible).

McAllister: And again, (inaudible) hear your voices.

Hargrave: Your voices and your opinion together.

Hall: Talk about those elevations. (Inaudible.)

McAllister: In fact, I wonder about that because when we start comparing rough computer runs of simulations that we do now it seems like Fort Peck sometimes...there's been a lot of changes and I'm always wondering if maybe it was slightly out of balance and was lower than the other lakes but I have way of verifying that in what little bit I've looked at it. But you may be right, it can be a little bit lower or one was a little bit higher and so when we look at changes under some of these alternatives where we supposedly *should* be higher, they don't appear to be much higher. So maybe Fort Peck was one that was just held a little higher too. Because I don't think there is ever any time that one can say that things are perfectly in balance. The lakes just don't go down like this. If we try to keep the lakes higher so in the winter you have enough head to generate out of the upper 2 or 3 lakes, there's always little balances and the lowest point in storage doesn't always come on the same day of the same month of the same year. So you are kind of comparing apples with oranges I guess is one way to talk about it.

Moore: We have a comment over here.

Voice: I have a question, all these dams up the river up from Gavins Point and due to the

recent disaster, tragedy in New York, does the Corps have an evacuation or is a disaster plan in place? I'm just kind of curious.

Hargrave: And they followed it. They absolutely; they have plans that are already in place.

Moore: Are you talking about below the dams? Evacuation below the dams?

Voice: Yeah, below the dams. If Gavins Point were blown up; Yankton would go (inaudible) downriver; the whole bit or above us. One up above would affect all of us down.

McAllister: We heard sometime...

Moore: And that can happen.

McAllister: The governor of the State of North Dakota declared the highway that crosses the top of Garrison Dam closed.

Hall: Highway 212.

McAllister: No one is allowed to drive across the top of the dam. That is just to keep people from going out there...

Voice: So do the tribes have a copy of the disaster plan or evacuation plan? Do we have anything like that? I don't know...

Moore: The State Emergency Management (EOC) Emergency Operations Center, they, if anybody, has one they would have one in EOC. Now the Corps has done some studies to take a look at what would happen if there was a failure. And they have mapped out, GIS mapped out the area that would be inundated in the event of a failure. Now I'd have, in my office there, there is a lady, Kathy Bosick, who does part of the emergency management team. They have plans; I'll have to check with her because I know they have doing more on the Cascadia earthquake possibility out there around Tacoma/Seattle and so they may have one already developed for...

Hargrave: I think the Corps, they go through exercises like they pretend a tragedy happened and they go through a whole exercise on what so that the procedures are periodically...they are sure that they are in place and being followed.

Voice: Well, that's interesting because who would have thought what happened would have happened and within minutes it happened again.

McAllister: And in the case of those buildings they had looked at different emergency procedures but they never envisioned a plane hitting them at mid-level.

Voice: No.

McAllister: If there was something that would happen on top, a fire on top and the thing falls but hitting one mid-level so you have the whole top third of it all of a sudden goes, sssh.

Voice: Yeah.

McAllister: Even with all your planning sometimes you can't predict what that factor is going to be.

Voice: No. We thought about that if a plane, God forbid that ever happen, you know, run into a dam, total that thing.

Moore: That would be like, to be honest with you, if a plane, big 747, 757, crashed into one of our dams into the embankment there would be a big ball of fire, a burned out area and that's it. It wouldn't affect the dam itself as far as blowing it up.

The only place that would have problems is if they would fly into the gate area and knock out the gate, you know, open it then you would have an uncontrolled gate release. Or if it hit the power plant they would probably shut down possibly the hydroelectric power generation. We'd still have the ability to close or do whatever but if they ever got emergencies, spillway or gates then we are in real trouble.

Voice: I went out to see Murrah when that happened and a third of that building top come down with a truckload of explosives; I bet you there's no precautions to prevent that at Gavins Point you can go on it with a Ryder truck. Two times bigger than what the is, you know, would be a disaster.

Moore: Stop there right there by the plant there.

Voice: Sure. Right below it. We just asked that question if it anything should happen.

Moore: Emergency Operations Center check to see if there is any kind of a plan, emergency plan.

Hargrave: And the other thing, Rick, maybe you should make a note that the tribes are aware of the plan. I think it's something that we need to...

Moore: Yeah. Do you guys have EOCs? Emergency Management?

Voice: Some tribes do, some don't.

Moore: Yeah.

Voice: It's gathering more as they asked.

Voice: Kind of seems like everybody (inaudible).

Hargrave: I just want to wrap; thank you so much.

Moore: Thank you for coming.

Hargrave: Hall wants to do whatever contact —we're there.

(End of Tape 9)