

BRINGING RIVERS TO LIFE



American Rivers
FOUNDED 1973

February 26, 2003

BY FACSIMILE (703-428-7633) AND U.S. MAIL

Ms. Linda Selinger
U.S. Army Corps of Engineers
ATTN: CEHEC-OC (FOIA)
7701 Telegraph Road
Alexandria, VA 22315-3860

RE: FREEDOM OF INFORMATION ACT REQUEST

Dear Ms. Selinger:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, I request copies of any and all records held by the United States Army Corps of Engineers' Headquarters office, dated on or after January 2002, and relating in any manner to the Corps' operation, maintenance or management of the Missouri River reservoir and dam system, including, but not limited to:

- records discussing implementation of or any decision not to implement the United States Fish and Wildlife Service's (FWS or Service) reasonable and prudent alternative and reasonable and prudent measures and terms and conditions set forth in the November 2000 Biological Opinion on the Operation of the Missouri River Mainstem Reservoir System;
- records related to the Corps' decision to implement the 2003 Annual Operating Plan (AOP) and not to implement a 2003 low summer flow;
- records related to the Corps' revision of the Missouri River Master Manual, including, but not limited to, documents relating to the Corps' June 2002 decision to postpone any revision;
- records relating to the Corps' Endangered Species Act Section 7 formal and informal consultations with the FWS, including the most recent re-initiation of formal consultation discussed in a letter to the FWS dated December 20, 2002;
- records relating to any environmental review the Corps conducted following the November 2000 Biological Opinion;

- records discussing, approving or refusing to approve a final Environmental Impact Statement for the Missouri River Master Manual;
- records discussing, approving or refusing to approve a final Record of Decision conforming the Corps' operational guidelines with Endangered Species Act requirements;
- records relating to any Corps' analyses of the Missouri River, including cost-benefit analyses, of Missouri River uses; and
- records supporting the Corps' statement in a letter to the FWS dated September 27, 2002, and in the 2002-2003 Draft AOP that lower than normal pool levels under all runoff scenarios will continue to provide quality nesting habitat for piping plovers along the shoreline of the reservoirs.

These records may include, but are not limited to, documents, contracts, agreements, arrangements, letters of intent, compacts, memoranda, letters, electronic mail, tapes, written or oral comments, notes, telephone logs, meeting minutes, notices, and hearing records.

I request a fee waiver for this FOIA request under the "public interest" clause of 5 U.S.C. § 552(a)(4)(A). American Rivers is a non-profit organization dedicated to environmental conservation on behalf of large national and statewide constituencies. American Rivers is committed to improving the Missouri River and preserving native species, including threatened and endangered species. Disclosure of the above information is in the public's interest because the requested documents will illuminate the Corps' activities with respect to the Missouri River.

The public has an interest in knowing whether the Corps has utilized its authority to operate the Missouri River in furtherance of the Endangered Species Act for the conservation of the endangered pallid sturgeon and least tern and the threatened piping plover, and whether the Corps' actions jeopardize the continued existence of those species or destroys or adversely modifies the piping plover's critical habitat. The public also has an interest in knowing whether the Corps has kept its promise to the United States District Court for the District of Montana to revise its Missouri River Master Manual to consider all River uses equally, thereby helping preserve threatened and endangered species. The requested documents also support public oversight of the Endangered Species Act and the Corps' obligations to act in a reasonable and prudent manner.

The requested information will be widely disseminated to the public through American Rivers publications, through American Rivers' staff primarily engaged in providing information to the media, and through litigation under the Endangered Species Act. This FOIA request is not made for commercial purposes.

Please have the above documents copied and sent to me at the address listed below. I am willing to modify or receive interim releases to expedite the release of records pursuant to this request. Should you have any questions regarding compliance with this request, I can be reached at (402) 477-7910.

Thank you for your cooperation in this matter.

Respectfully,

A handwritten signature in black ink, appearing to read 'Chadwin B. Smith', enclosed within a large, loopy oval shape.

Chadwin B. Smith
Director, Nebraska Field Office
American Rivers
650 J Street, Suite 400
Lincoln, Nebraska 68508