

DaSKAshas. Mabeedzagidz. Nawah. In the languages of the Mandan, Hidatsa and Arikara Nation, I have just greeted you and said, "Today is a good day." And on behalf of our People, Agu Wa=Guxdish, I greet you like a relative, in a respectful way. My name is Pemina Yellow Bird, and I want to thank you, the other members of the Senate Committee on Indian Affairs, and your staff for responding to our Coalition's request for today's important hearing concerning the protection of sacred and cultural places here in our homelands. The testimony we submit this morning will be augmented by written comment in a separate document.

On this good day, Agu Wa=Guxdish, I am here to talk about our Nation's **urgent, unmet need** to preserve and protect our People's irreplaceable sacred places all along Adiba Waduxte, which means Mysterious or Holy Grandfather, one of our Peoples' names for the Missouri River.

The people of the Mandan, Hidatsa and Arikara Nation have occupied both banks of our Grandfather's entire length since time immemorial. During the long occupation of our aboriginal homelands, our ancestors established thousands of earthlodge village sites, burial grounds, hunting camps, and battle sites, and made daily use of ceremonial and other prayer areas, as well as areas where our medicines grow. His waters sustained life for our People and for the abundant fish, game and crops we survived on; his banks were lined with the heavy timber we used for our earthlodge homes, and his bluffs and terraces provided all we needed to build our homes, plant our productive gardens, and sustain an exceedingly good way of life for our People for many, many millennia. The River sustained life for many other Nations of Indigenous Peoples, as well, and our people traded the produce from our abundant gardens with these tribes and others from as far away as the Gulf of Mexico and the Pacific Ocean. We had a good life, then, a life that was guided and directed by a living spirituality that is inseparable from the life of the River itself.

Holy Beings, sent to help our Peoples, emerged from and returned to our Grandfather, and the teachings left with us by these Holy Beings still guide, nurture and sustain our Nation today. Many of the sacred places we are fighting to preserve were actually visited by these Holy Beings, central teachers for our Nations, whose legacy and purpose are identical to that which Jesus Christ holds for millions of Christians around the world. To see the destruction, disrespect and disappearance of these places which hold such great sacred value for us has been heartbreaking, and today we are here to tell you of the threats to these critical places.

In a landmark study published in 2000 by the World Commission on Dams, a project of the United Nations, U.S. Bureau of Reclamation archeologists Kimball Banks and J. Signe Snortland compiled the following facts:

- \$ The Missouri River is the longest drainage in North America, as it encompasses over half a million square miles.
- \$ The passage of the 1944 Flood Control Act resulted in the construction of seven federal dams on our Grandfather, and each one has destroyed places sacred to our People, and all of them continue to have destructive impacts to remaining sacred places and lands.

- \$ Prior to dam construction, reconnaissance surveys recorded over 800 archeological and historic sites in the Dakotas, and 90 major archeological excavations have recovered over one and a half million items of tribal sacred and cultural property.
- \$ Modern, intensive pedestrian surveys of the reservoirs indicate that the pre-dam surveys found only 1/4 to 1/6 of cultural resources discovered to date. Whereas the River Basin Survey recorded 800 historic sites prior to the construction of the dams, the US Army Corps of Engineers estimates that over 3,000 historic sites have now been recorded. Moreover, archeologists working on Missouri River cultural resources have estimated that if complete new surveys were conducted on all Corps-managed Missouri River lands, five to six times more (an estimated 15,000 to 18,000) historic sites could be identified and evaluated for inclusion in the National Historic Register.
- \$ Presently, reservoir and downstream river banks hold inundated, eroding and endangered sacred places that are the material record of the Arikara, Mandan and Hidatsa tribes and their ancestral legacy. These historic properties represent a unique aspect of the cultural resources on the Missouri River: these villages are found **only** in the Missouri River drainage system. Managing these non-renewable sacred and cultural resources is an ongoing financial, legislative and cultural challenge for federal agencies.
- \$ A total of 556 earthlodge village sites have been identified along the Missouri River in the Dakotas. In both North and South Dakota, some of these villages have been designated as state or local historic sites, adding somewhat to their protection.
- \$ Unfortunately, the location of the majority of these sites coincides precisely with most of the dam construction on the Missouri River. Consequently, only a few of these sites remain in a pristine condition and the majority has been adversely affected by dam construction or reservoir operations. Adverse impacts include, but are not limited to, erosion, exposure or inundation due to fluctuating water levels of the sacred places on federal lands surrounding reservoirs.
- \$ Also impacting our sacred places is the erosion or inundation on tribal, state or private lands downstream due to water releases from the reservoirs, impacts which take a toll on our sacred places located on lands not protected by federal preservation law unless they are fortunate enough to be the location for a project requiring a federal permit or federal dollars.
- \$ Further impacts to our sacred places include destruction due to construction or development activities, recreation or tourism activities, agricultural or grazing uses, and looting.
- \$ Increasingly, looters and off-road vehicles, (especially boat traffic), damage and steal from our sacred places on federal lands on the Missouri River. Because of the wealth and density of ours and other tribes= material and sacred property embedded in Missouri River lands, especially our earthlodge village sites and nearby burials, our sacred places

and cultural resources are a prime target for looters, especially when low reservoirs reveal sites exposed by inundation and erosion. Looting and vandalism is increasing, and tribal monitors have caught repeat offenders red-handed, who travel along the shoreline in their fishing boats, leaving them to pile up artifacts and items from burials onshore, then returning down the shoreline to load their piles of our sacred and cultural property into their boats. Most looting occurs at night, in very isolated places, and the Army Corps has not made funds available to monitor these isolated sacred places to protect them from looting, despite repeated tribal requests that they do so.

- \$ Planners for the celebration of the Lewis and Clark Bi-Centennial tell us we can expect up to 30 million visitors to our river, a thought which fills us with dread when we think of our vulnerable and exposed sacred and cultural places. When I think of millions of tourists driving on and camping at the few places where our medicines can still be found, of them floating past open and exposed burials in collapsed cutbanks in fishing boats and canoes, many of whom will be in complete ignorance of existing statutory protection and who thus may think it's perfectly fine to grab a souvenir to take back home, it makes me just want to find a spot on Adiba Waduxte's banks to sit down for a good cry.
- \$ To address the issue of protecting sacred places in the face of all those proposed visitors, tribes have repeatedly asked the Omaha District ACE to create a federal, state and tribal Inter-Agency Task Force whose sole purpose would be to undertake a public education process defining looting and legal sanctions against it, to create plans where tourists would be channeled away from vulnerable, endangered sacred places, to ensure that all archival material containing information relative to the location of sensitive places is restricted and protected, and to have in place viable enforcement policies. As it stands now, rangers and wardens who work for the Army Corps, often the only personnel near these isolated sacred places, do not have the authority to detain or arrest looters, or to confiscate their equipment. The creation of the Task Force has not been done, yet the celebration begins next year and we are running out of time.
- \$ Federal funding and the budget process is a management issue because it determines the federal effort to protect or mitigate endangered sacred places, the study goes on to say. Although federal laws and regulations require federal land-managing agencies to properly manage cultural resources, no two agencies are alike and protection for our sacred places is directly proportionate to the priority given them within a particular agency. The record clearly shows the level of priority our sacred places have been given by the Omaha District of the Army Corps of Engineers.

The record that I refer to for our purposes today is the Master Manual's Draft Revised Environmental Impact Study (RDEIS) recently published as the Northwestern Division of the U. S. Army Corps of Engineers continues to develop an updated plan for the management of the mainstem dam system they built on the Missouri River. It is a very large document, two volumes, each several inches thick. It's a large document, but even a cursory reading of it will show that there's no room for our Tribes or our concerns, as virtually every issue raised by Tribes throughout the EIS process was avoided or ignored by the Corps, by declaring (1) they

had done enough to satisfy federal laws where Tribal issues are concerned, (2) that issues the Tribes raised were not part of their project's purpose, or (3) that they would act on Tribal concerns when funds became available, which they never seem to do.

The RDEIS is weakest in its analysis of impacts to tribal sacred and cultural places. Models used are flawed and simply fail to consider all impacts to our sites. Scarce data offered for our consideration in the RDEIS are inconclusive, meaningless, confusing and inconsistent. Instead of the useful guidance needed by tribes to make a choice among the proposed alternatives, twenty year old, incomplete survey data are offered to us for review. Archeological data, particularly on constantly-shifting, heavily impacted Missouri River soils, have a shelf-life of eight to ten years, and must be replaced with updated, Class III pedestrian surveys to be useful to land managers and tribes. We can't protect that which we are unaware of, Agu Wa Gux Dish, which is why our Nation has made repeated requests for the completion of new surveys before we can consult with the Army Corps on any action it proposes, not the least of which is a new Master Manual, a management document we'll all have to live with for decades.

Due to the paucity of accurate and useful data concerning our sacred places, our Nation requested a Supplemental Environmental Impact Study, to conduct new surveys which could identify the tens of thousands of additional sites today's archeologists expect to find. At a recent Master Manual Summit between the Army Corps and Tribes, General David Fastabend informed Chairman Hall that our request was denied because he felt the Army Corps had enough information to make their decision and did not require another study. Yet the information they do give us contains some startling statements:

- \$ A recent study (actually, it's 13 years old) of 12 archeological sites on bluff tops adjacent to Lake Sakakawea, Lake Oahe, Lake Francis Case, and Lewis & Clark Lake measured bank recession over a period of 50 years using historical aerial photos (Ebert et al., 1989). This study found a steady rate of erosion averaging 8.2 horizontal feet per year at these sites. In some areas, 25 per cent or more of this shoreline recession may be directly attributable to frost action. Extreme high water or storm events can also cause sudden and dramatic shoreline slumping. The average annual erosion at all the Mainstem Reservoir System lakes is estimated at between 1 and 2 square miles, resulting in the loss of 40 to 80 sites per year.
- \$ At the Master Manual Summit meeting, tribes noted that the overall tone to cultural resource discussions within the RDEIS implied that the Corps' management of the River will continue to have an acceptable levels of impacts to our sacred and cultural places. Our Nation, in particular, objected to this tone, and asserted that the loss of 40 to 80 sites per year *is not acceptable to us*, and noted that at this rate of loss, within 20 years 1,600 more sites will have disappeared from the face of the Earth. Within another 20 years, we stated, there will be no trace of our Nation's millennia-long occupation of our homelands along the shores of our Adiba Waduxte.
- \$ A member of the Master Manual Team responded by saying that the study had been

misquoted, and that the rate of loss was 40 to 80 sites every ten years, not every year. That meeting took place on April 16 of this year, and at that time our Nation asked to be sent a copy of that report to review, and though we have made two subsequent requests, we still have not received a copy of the report. And even if it's true that the Army Corps published erroneous information in their RDEIS, and the rate of loss is calculated at 40 to 80 sites every ten years, that level of loss is still unacceptable to us.

\$ Not until 1978 did the Omaha District begin to utilize district resources to stabilize shorelines to preserve and protect our Nation's sacred and cultural resources. Since then, a total of \$1,933,000 has been spent on shoreline stabilization for a total of 19 sites out of an estimated 3,000 known sites on project lands. This amount must be compared to the millions that have been spent on developing analysis models to determine impacts to fish and wildlife populations for the RDEIS alone. Moreover, according to the archeological staff at the Omaha District, the stabilization and protection of those 19 sites reflects only their perceived high archeological value, and not the spiritual and cultural significance they hold for our Missouri River tribes.

\$ On January 9, 2002, the National Academy of Science published findings of their two-year study, *The Missouri River Ecosystem: Exploring the Prospects for Recovery*. The findings of this important study tell us that ~~A~~the River is in serious decline,~~@~~ and what that means to us is that our Grandfather is dying because of the way the Army Corps is managing the River: the fish are dying off - they can't reproduce; the water is full of silt and sedimentation, as well as mercury and lead from the dumping of upstream gold mining waste water. Reservoir levels are at record lows, and huge sections of shoreline are now exposed, which accelerates erosion and looting of our sacred places.

WHAT MUST BE DONE

\$ Oversight - the Omaha District has received several letters from the National Council on Historic Preservation, the Environmental Protection Agency, and the National Historic Trust, all of them pointing out deficiencies and even violations of federal law committed by the Omaha District where preservation and protection of our sacred places is concerned. The National Council on Historic Preservation has issued a Letter of Foreclosure on a 1988 Programmatic Agreement concerning our sacred and cultural places the District signed with the State Historic Preservation Officers of Nebraska, South Dakota and North Dakota, because they failed to enact it! Even more astonishing, the District continues to insist the Programmatic Agreement is still in effect, even though a Letter of Foreclosure has the effect of voiding the Agreement. In addition, within the last two years, as a result of continued complaints from Tribes, the District conducted an internal Peer Review Assessment of its Cultural Resource Program, yet there was very little tribal participation in this Review Assessment of a program which heavily and many times, negatively, impacts tribal interests, and Tribes have not seen any positive actions resulting from this internal Peer Review Assessment.

\$ Funding - It has become almost routine for the Omaha District to respond to tribal

requests by telling us they can only undertake projects related to our concerns when the funds become available. We know that the protection and preservation of our sacred places is not a high priority within the District, as reflected by the chronic lack of resources committed to this critical issue. A recent visit with staff at the Omaha District resulted in the disclosure of a \$77 million dollar wish-list: with \$77 million, the District could conduct surveys and immediately begin stabilizing the shoreline for hundreds of important sacred and cultural places. We are here to ask you to assist us in obtaining appropriations to make everyone's Missouri River wishes come true, so that our generations to come will have a place to pray, to gather medicines, to walk where their ancestors walked. This request comes with a word of caution, however: any funds appropriated must be specifically earmarked for the stabilization of sacred and cultural places, with appropriate deadlines for expenditure, so that the monies are not diverted or returned because they are not used.

\$ Our beloved Adiba Waduxte no longer flows freely within the boundaries of our reservation homelands, Agu Wa=Guxdish, and the vast majority of ancient, sacred places within our boundaries now lie under his waters, forever reversed and stilled. This makes the relatively few places still in existence, where our ancestors once lived and loved, even more precious to us, because *they are all that we have left*. Our need for the life given to us by our Grandfather and our Holy Places is so great that it is not an exaggeration to say that our Nation's revitalization and survival depend on their survival. Those sacred places are all that stand between us as a living, flourishing Nation and the disappearance of our Peoples' long and ancient history alongside the moving, living waters of our precious Grandfather. Flooding us out of our homelands broke our hearts but it did not break our spirits, and the people of the Mandan, Hidatsa and Arikara Nation stand ready to take whatever action we must take to preserve a place to pray for the generations who are coming, because the living and Holy Being who brought our Nations through thousands of years of life is dying, Agu Wa=Gux Dish, and he and our people just want to live. We just want to live.

We DuT Dunst Stut
That's the way things always were
That's they way things are now
That's the way they will always be

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Oversight Hearing for the
Preservation and Protection of Sacred Places
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Testimony Submitted by
Pemina Yellow Bird
Mandan, Hidatsa, and Arikara Nation
Ft. Berthold Reservation, North Dakota

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