

**INVASIVE SPECIES CONTROL AND TITLE VI LANDS IN SOUTH DAKOTA
TESTIMONY TO THE NORTH DAKOTA NATURAL RESOURCES COMMITTEE
MARCH 4, 2010**

Good morning, my name is Paul Coughlin. I am the Wildlife Lands Program Administrator for the South Dakota Department of Game, Fish & Parks in Pierre. As Program Administrator, I am responsible for overseeing the acquisition and management of public hunting lands for the Department of Game, Fish & Parks.

Thank you for your invitation to provide testimony and share our experiences regarding invasive species control on Title VI lands along the Missouri River in South Dakota. I hope you find this information informative and helpful, and I look forward to fielding any questions you have regarding our experiences working with the Corps of Engineers.

Impetus for Title VI

Oahe and Big Bed dams were constructed on the Missouri River in South Dakota under authorization of the Pick-Sloan Act, resulting in the flooding and loss of over 423,000 acres of riparian wildlife habitat. The Fish & Wildlife Coordination Act called for the mitigation of this loss, but over time the federal government failed to fully follow through with appropriate or adequate mitigation measures.

In an attempt to finally satisfy mitigation requirements, Title VI of the Water Resources Development Act of 1999 authorized the permanent transfer of 90,000 acres of Corps of Engineers take lands adjacent to the Missouri River to the State of South Dakota, and to the US Department of the Interior to be held in trust for the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe.

Title VI Land Transfer

In total, 73,319 acres of former Corps of Engineers take lands have transferred to the Department of Game, Fish & Parks for fish and wildlife purposes and public recreation uses, including 35 designated recreation areas operated as part of the South Dakota State Park System.

However, title to lands on Lake Oahe lying below the exclusive flood pool and adjacent to wildlife areas, and those lands below the base flood pool and located adjacent to recreation areas remains with the Corps of Engineers. This ownership arrangement can obviously present jurisdictional and management challenges for both agencies.

Trust Fund

Additionally, Title VI established a \$108 million trust fund. Interest generated from the trust fund is utilized by the Department of Game, Fish & Parks for restoration, improvement, and creation of terrestrial wildlife habitat on the transferred land; the protection of archaeological, historical and cultural resources; maintenance,

development, and operation of recreation areas; purchase and administration of hunting access leases on private lands; and the development and maintenance of public access to wildlife habitat and recreation areas. Specific to wildlife lands, trust fund generated revenues are used by the Wildlife Division to pay property taxes and manage the nearly 72,000 acres of Title VI Game Production Area along the Missouri River reservoirs, including the management control of noxious weeds.

Cultural Resources Responsibilities

Title VI legislation also requires compliance with the National Historic Preservation Act, Archaeological Resources Protection Act, and Native American Graves Protection and Repatriation Act. Enforcement and compliance authority with these acts currently remains with the Corps of Engineers, pending a Programmatic Agreement with the State of South Dakota. A comprehensive cultural and archeological site inventory survey of the transferred lands, as required by the Title VI legislation, is completed and this information now assists managers in operation, management and development on Title VI lands.

Threatened and Endangered Species Responsibilities

Title VI also requires Department of Game, Fish & Parks coordination with the US Fish & Wildlife Service, the Corps of Engineers, and the National Park Service to address conservation and management needs of four federal and state listed species that occur along the Missouri River in South Dakota. A Memorandum of Agreement drafted and signed by representatives of these four agencies satisfied endangered species concerns related to the land transfer.

Mentioning cultural resources and threatened and endangered species responsibilities is important. The Department of Game, Fish & Parks takes these responsibilities very seriously, as they can and do affect management and development activities on Title VI lands, even activities as basic as noxious weed control and grazing management.

State Management Authority and Purpose

In 2000, the South Dakota Legislature enacted legislation for the purpose of accepting ownership of the Title VI property, but also granting the Department of Game, Fish & Parks authority to manage, control, and improve the property on behalf of the state. Under both the state law and Title VI, the intent and direction is clear; the property transferred to the Department of Game, Fish & Parks must be used “for fish and wildlife purposes, or public recreation uses, in perpetuity”.

Management Responsibilities

Title VI also requires the Department of Game, Fish & Parks to maintain all existing easements, rights-of-way, leases, and agreements in effect at the time of the land transfer. For Title VI Game Production Areas, principal management responsibilities

include maintaining boundaries, controlling noxious weeds, fencing, maintaining public access facilities, and managing grazing and irrigation leases. Currently the Department of Game, Fish & Parks maintains over 100 grazing leases with adjoining landowners along Lake Oahe alone. Because boundaries are not fenced, much of the grazing activity is considered uncontrolled, yet still managed by the Department to a degree by issuing our annual grazing leases.

Management below 1620' and 1607.5'

In October 2008, the Department of Game, Fish & Parks entered into a term easement with the Corps of Engineers for management below the Title VI transfer elevations, that is 1620' mean sea level adjacent to wildlife areas and 1607.5' mean sea level adjacent to recreation areas. The purpose of this easement is to facilitate use and management of remaining Corps of Engineers lands by the Department of Game, Fish & Parks down to the waters edge. Included in this easement is acknowledgement of responsibility for invasive species and noxious weed control.

As per the easement, the control of invasive species and noxious weeds, including State and Federal listed noxious weeds, is not the responsibility of the Department of Game, Fish & Parks, unless the Department should enter into a lease on its adjacent lands, upon which control of noxious weeds becomes the responsibility of the lease holder.

Title VI Land Noxious Weed Control

Noxious weed control is required of all lease holders on Department of Game, Fish & Parks lands. And since much of the Title VI land around Lake Oahe is leased for grazing, the responsibility for noxious weed control on Title VI lands is the responsibility of the lease holder, including control responsibilities below the transfer elevation. This is clearly stated in the annual leases issued by the Department of Game, Fish & Parks.

Use and management, including noxious weed control, on Title VI lands located below the transfer elevation is obviously greatly affected by water levels in the reservoirs. Current water levels in Lake Oahe certainly diminish the magnitude of noxious weed infestations, translating into very little need for control. The State of South Dakota, the Department of Game, Fish & Parks, and the lease holders up until now have been extremely fortunate that water levels have help diminish noxious weed infestations around Lake Oahe. However, we are all very aware of the potential for serious infestations to reoccur when water levels recede.

The Department of Game Fish & Parks' experience working with the Corps of Engineers to address invasive species and noxious weed control along the reservoirs in South Dakota has been amicable. We all recognize and understand that limitations, financial or otherwise, dictate the level of commitment any one agency can dedicate to activities as important as noxious weed control. Even prior to Title VI, the Corps of Engineers, and the State of South Dakota, through the Department of Game, Fish & Parks, worked

cooperatively to address noxious weed issues, and to this day we continue to work in a cooperative manner. But again, we continue to recognize and acknowledge that resource limitations by both agencies necessitate the need to work cooperatively, and we continue to do so.

I hope you've found this information helpful, and I am happy to answer any questions.