



2016

Fact Sheet: Potential Transfer of Garrison Dam/Lake Sakakawea Project Lands

United States Army Corps of Engineers

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Recommended Citation

United States Army Corps of Engineers. *Fact Sheet: Potential Transfer of Garrison Dam/Lake Sakakawea Project Lands*. 2016. <https://commons.und.edu/indigenous-gov-docs/143/>.

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FACT SHEET

Potential Transfer of Garrison Dam/Lake Sakakawea Project Lands

PROJECT NAME AND LOCATION.

Potential Transfer of Garrison Dam/Lake Sakakawea Project Lands within the Fort Berthold Reservation Boundaries, Garrison Dam/Lake Sakakawea, North Dakota

AUTHORIZATION.

Fort Berthold Mineral Restoration Act [P.L. 98-602, Section 206(b)]

HISTORY.

Based on a request made by the Chairman of the Three Affiliated Tribes and direction by the Assistant Secretary of the Army for Civil Works, the Corps of Engineers acting on behalf of the Department of the Army, began the review of Garrison Project lands pursuant to the Fort Berthold Reservation Mineral Restoration Act, Public Law 98-602, Section 206(b), and other applicable laws. This review was to determine if the Army had the authority to recharacterize Garrison Project lands, and if they did, to determine if there would be project lands that are no longer needed for the construction, maintenance, or operation of the project. If there were lands that are no longer needed, the Corps through the appropriate process would begin an effort to recharacterize Garrison Dam/Lake Sakakawea project lands as lands to be held in trust for the benefit of the Three Affiliated Tribes of the Fort Berthold Reservation.

PROCESS.

A three-phase process is being implemented that will maximize public, state and tribal and federal involvement in this effort. The three-phase approach includes input by interested public, state, tribal and federal parties through individual and public meetings.

Phase 1 is called Determination of Authority and will determine if the Corps has been given the authority to declare lands no longer needed for construction, maintenance, and operation as lands to be held in trust for the benefit of the Three Affiliated Tribes.

Phase 2 is called Development and will be where criteria, restrictions, land determination, and agreements will be discussed and determined.

Phase 3, called Implementation, will be where the decisions made in Phase II will be implemented.

STATUS.

Phase 1. It has been determined that under the Fort Berthold Mineral Restoration Act that the Corps of Engineers, acting as an agent of the Secretary of the Army has the authority to enter into agreements with the Department of the Interior under which any land within the exterior boundaries of the reservation (i.e., Fort Berthold) acquired by the United States for the construction, maintenance, or operation of the Garrison Dam and Reservoir Project that is no longer needed for such purposes is declared to be held by the United States in trust for the benefit of the Three Affiliated Tribes of the Fort Berthold Reservation.

Phase 2. Three public meetings were held in Bismarck, ND (May 24, 2005), Dickinson, ND (May 25, 2005) and Williston, ND (May 26, 2005), to enable the Corps to share information on the



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project as well as receive public comment. Each meeting had two hours set aside for the public to interact with Corps officials and two hours set aside for formal comment statements to be received and recorded. The Corps received over 800 comments from more than 150 people during the comment period, which ended on June 3, 2005.

A draft Effects Report, dated May 2006, was prepared and made available for public comment on June 2, 2006. The document explains the criteria, recommends a proposed determination on lands no longer needed and consolidates and responds to all comments that were received during the May/June 2005 public comment period. Prior to the documents release pre-brief meetings were held with Congressional, Tribal and State leadership, including Senators Conrad and Dorgan, Congressman Pomeroy, Chairman Hall and the Three Affiliated Tribal Council, and Governor Hoeven.

Subsequent to the release, six public meetings were held in Bismarck, Dickinson, Hazen, Williston, New Town and Minot, North Dakota from June 26-30, 2006. The Corps discussed the information contained in the draft Effects Report with the public and provided an opportunity for the public to formally comment on the document. The comment period on the draft Effects Report ended on August 22, 2006.

In May 2015, the Assistant Secretary of the Army for Civil Works (ASA/CW) and the Assistant Secretary for Indian Affairs (DOI/IA) signed an MOA outlining the process for transferring jurisdiction of some Garrison project lands no longer needed for the construction, maintenance and operation, to the Department of the Interior to be held in trust for the Three Affiliated Tribes (Mandan, Hidatsa, Arikara Nation). The MOA, itself, does not transfer jurisdiction over the lands, but describes next steps in that direction. The MOA is consistent with Public Law (P.L.) 98-602, the Fort Berthold Mineral Restoration Act (FBMRA) and provides that the current land use will continue unchanged after the transfer. It also provides that public access will be granted and prohibits residential development, mineral harvesting or other activities that could threaten the operation of the Garrison Project. The Corps will retain management of Recreation and Wildlife Management lands.

At the time of signature, funds were not available, but the ASA/CW has directed funding be made available as part of the Fiscal Year 2016 budget to implement the MOA. Funding is expected in mid-April.

Phase 3. To implement the MOA the Corps, Omaha District will finalize the 2006 Draft Effects Report, complete an environmental review of the property, and draft and process the documents required to transfer the jurisdiction of the land to the DOI. It is anticipated that the completion of the transfer process could take place within one year of the initiation of the process.