

August 28, 1990. The FEIS described four alternatives for the proposed construction and operation of a hydropower project using features of Reclamation's Uncompahgre Valley Reclamation Project (UVRP).

Reclamation is considering executing a lease of power privilege (a type of contract) with a private company to use facilities for this project. A Section 404 Permit under the Clean Water (Act) is also required for the project.

The alternatives described in the FEIS provided for additional water diversions from the Gunnison River through the existing Gunnison Tunnel to a penstock and powerplant near Montrose, Colorado. The significant issues addressed in the FEIS included the impacts of reduced flows in the Gunnison River, increased flows in the Uncompahgre River, economic impacts in local counties, and impacts on wetlands. Since publication of the FEIS, additional information has become available concerning proposed bank stabilization plans along the Uncompahgre River, endangered species, resources along the Gunnison River, and power sales.

Hydropower development in association with the UVRP was authorized by the Act of June 22, 1938 (Pub. L. 75-698, Stat. 941). Under the Act, the hydropower facility would be constructed and operated under a lease of power privilege with Reclamation. This lease would provide for cost reimbursement fees, Reclamation's role as overseer, and the Sponsor's obligations, including environmental commitments. Funding for the hydropower studies is provided by the project proponents. Reclamation serves as the lead Federal agency responsible for ensuring compliance with NEPA.

#### Potential Federal Action

Two major Federal actions are pending on the project: execution of a lease of power privilege by Reclamation and issuance of a Section 404 Permit under the Clean Water Act by the Corps of Engineers.

Dated: October 7, 1997.

**Charles Calhoun,**

*Regional Director, Upper Colorado Region.*

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## DEPARTMENT OF THE INTERIOR

### Bureau of Reclamation

#### Garrison Diversion Unit

**AGENCY:** Bureau of Reclamation, in conjunction with U.S. Fish and Wildlife

Service, and the North Dakota Game and Fish Department.

**ACTION:** Notice of availability of Final Environmental Impact Statement (FEIS).

**SUMMARY:** Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Bureau of Reclamation, acting as lead Federal agency, in conjunction with the Fish and Wildlife Service and North Dakota Game and Fish Department, has prepared a Final Environmental Impact Statement (FEIS) on the Arrowwood National Wildlife Refuge (NWR) mitigation project. The FEIS evaluates the impact to the environment of seven alternatives, including no action, for mitigating adverse impacts of Jamestown Reservoir on Arrowwood NWR. The project would improve refuge water management capability through construction of various bypass channels, water control structures, and fish barriers. In addition, the normal operating level of Jamestown would be lowered approximately 1.8 feet. This mitigation is required by the Garrison Diversion Unit Reformulation Act of 1986 (P.L. 99-294) and the National Wildlife Refuge System Administration Act (16 U.S.C. 668dd-668jj).

**DATES:** A 30-day public comment period commences with the publication of this notice.

**ADDRESSES:** Obtain information relative to the study or a copy of the FEIS from: Greg Hiemenz, Project Coordinator, Bureau of Reclamation, Dakotas Area Office, P.O. Box 1017, Bismarck ND 58502.

**FOR FURTHER INFORMATION CONTACT:** Greg Hiemenz, Project Coordinator, at (701) 250-4242 extension 3611 or Dennis E. Breitzman, Area Manager, at (701) 250-4242.

#### SUPPLEMENTARY INFORMATION:

Arrowwood NWR is located on the James River in Stutsman and Foster Counties, North Dakota. The refuge lies within the flood pool of Jamestown Reservoir, a component of the Garrison Diversion Unit, and has, on numerous occasions, been adversely affected by reservoir operations.

Seven alternatives for mitigating impacts to the refuge, including no action, were evaluated in the FEIS. The action alternatives comprise an incremental series of physical features, including bypass channels, water control structures, waterfowl sub-impoundments, and fish barriers, that could be constructed at Arrowwood NWR and Jamestown Reservoir to improve refuge water management. In addition, five of the six action alternatives would lower the normal

operating level of Jamestown Reservoir and include measures to enhance the reservoir's sport fishery. Three of the alternatives would require off-site mitigation, including acquisition of private lands for development as wildlife habitat, to fully mitigate impacts to the refuge. The preferred alternative is the Mud and Jim Lakes Bypass—Lower Joint-use Pool Alternative. This is the least costly alternative that mitigates for all adverse impacts without requiring any acquisition of private land.

As part of the NEPA process, public scoping meetings were held during January 1994. The draft EIS was completed and sent out for agency and public review and comment in April 1996. Comments were received and replies are incorporated into the FEIS.

Dated: October 7, 1997.

**Neil Stessman,**

*Regional Director.*

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## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on September 29, 1997, a proposed De Minimis Consent Decree ("proposed Decree") in *United States and State of Indiana v. A. H. Choitz, et al.*, Civil Action No. 1:97-CV-362, was lodged with the United States District Court for the Northern District of Indiana (Fort Wayne Division).

In this action the United States seeks relief under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. §§ 9606 & 9607, for cost recovery and abatement of hazardous substances relating to the Wayne Reclamation and Recycling Site (Site), located near Columbia City, Indiana.

The proposed Decree would resolve the liability of over 800 *de minimis* parties. These parties were customers of a now-defunct company known as Wayne Reclamation, which operated the Site in the 1970's and 1980's and which transported and disposed of a wide variety of substances, including waste oil. Each of the proposed *de minimis* settlers allegedly arranged with Wayne Reclamation for the disposal of minimal amounts of hazardous substances which ultimately were disposed of at the Site.

Under the proposed Decree, each of these 800-plus *de minimis* settlers

receives contribution protection for response costs incurred and to be incurred in cleaning up the Site, as well as covenants not to sue from the United States under Sections 106 and 107 of CERCLA and Section 7003 of the Resource Conservation and Recovery Act ("RCRA"). The State of Indiana, co-plaintiff in this case, gives similar covenants to the *de minimis* settlers. Also joining the proposed Decree are private parties ("the Large Volume PRPs") who are obligated under a prior consent decree with the United States and State of Indiana to design, construct, and maintain the remedial action that EPA selected for the Site. Under the proposed Decree, the Large Volume PRPs relinquish their contribution claims against all the *de minimis* settlers and against any other person not already sued in contribution for costs incurred in connection with this Site.

In return for these covenants, the *de minimis* settlers shall pay, in total, approximately \$5.4 million to the large Volume PRPs. In addition, the United States and State of Indiana shall receive from the Large Volume PRPs approximately \$203,000, in reimbursement of past costs and in resolution of a natural resource damages claim.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposing Decree. Comments should be addressed to the Assistant Attorney General of the Environmental and Natural Resources Division, Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530, and should refer to *United States and State of Indiana v. A.H. Choitz, et al.*, Civil Action No. 1:97-CV-362, D.J. Ref. 90-11-3-603A. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. § 6973(d).

The proposed Decree may be examined at the Office of the United States Attorney, 3128 Federal Building, 1300 S. Harrison Street, Fort Wayne, Indiana 46802, at the Office of Regional Counsel, U.S. EPA Region 5, 200 West Adams, Chicago, Illinois, and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624-0892.

A copy of the proposed Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy of the entire Decree, including all signature pages and attachments, please enclose a check

in the amount of \$126.25 (25 cents per page reproduction cost) payable to the Consent Decree Library. In requesting a copy of only the text of the proposed Decree, a stipulation related to the proposed Decree, and the signature page of the United States, please enclose a check in the amount of \$9.50 (25 cents per page reproduction cost) payable to the Consent Decree Library.

**Bruce S. Gelber,**

*Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

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## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that a second proposed Consent Decree in *United States v. H. Brown Co., et al.*, Civil Action No. 1:96 CV-949 (W.D. Mich.), entered into by the United States and seven (7) parties, was lodged on September 30, 1997, with the United States District Court for the Western District of Michigan. The proposed Second Consent Decree resolves certain claims of the United States for past and future costs under the Comprehensive Environmental Response, Compensation and Liability Act, as amended ("CERCLA"), 42 U.S.C. § 9601, *et seq.*, with respect to the H. Brown Superfund Site ("Site") in Walker, Michigan. Under the terms of the proposed Consent Decree, the seven Settling Defendants will pay a total of \$100,000 to the United States.

The Department of Justice will receive comments relating to the proposed Second Consent Decree During my tenure at the Board of Immigration Appeals, the attorney-advisor drafted legal opinions for the adjudicating body which addressed issues of law and fact appealed to the Board by the Immigration Service and should refer to *United States v. H. Brown Co., et al.*, D.J. Ref. No. 90-11-2-835A. The proposed Second Consent Decree may be examined at the Office of the United States Attorney for the Western District of Michigan, Grand Rapids, Michigan; the Region V Office of the United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; and at the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, DC 20005, telephone no. (202) 624-0892. A copy of the proposed Consent Decree may be

obtained in person or by mail from the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, DC 20005. In requesting a copy, please enclose a check for reproduction costs (at 25 cents per page) in the amount of \$9.25 for the Decree, payable to the Consent Decree Library.

**Bruce S. Gelber,**

*Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

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## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that a proposed Consent Decree in *United States v. MacGillis & Gibbs Co., and Soo Line Railroad Co.*, Civil Action No. 4:94-CV-848 (D. Minn.) entered into by the United States and the Soo Line Railroad Co. ("Soo Line"), was lodged on September 23, 1997, with the United States District Court for the District of Minnesota. The proposed Consent Decree resolves certain claims of the United States under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9607, with respect to the MacGillis & Gibbs Co./ Bell Lumber & Pole Co. Superfund Site ("Site") in New Brighton, Ramsey County, Minnesota.

Under the terms of the proposed Consent Decree, Soo Line agrees, *inter alia*, to pay the United States \$75,000 in past response costs incurred in connection with the MacGillis & Gibbs portion of the Site, and \$10,000 for federal Natural Resource Damages. In addition, Soo Line agrees to provide access to U.S. EPA to its property at the Site for purposes of implementing response actions, and agrees to record land use restrictions to ensure the protectiveness of the remedial measures at the Site.

The Department of Justice will receive comments relating to the proposed Consent Decree for 30 days following publication of this Notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044-7611, and should refer to *United States v. MacGillis & Gibbs Co. and Soo Line Railroad Co.*, D.J. Ref. No. 90-11-2-904. The proposed Consent