

From: [Schumacher, Marilyn](#)
To: [WSRULE2016](#)
Subject: [Non-DoD Source] COE-2015-0016 Projects for Domestic municipal and Industrial Water Supply
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Attachments: [Scanned Document_20170424_113909.pdf](#)

Dear Sir/Madam

Attached are comments submitted by the Lewis & Clark Natural Resources District in reference to Docket No COE-2015-006 Use of US Army Corps of Engineers Reservoir Projects for Domestic Municipal and Industrial Water Supply.

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April 24, 2017

U.S. Army Corps of Engineers
ATTN: CECC-L, U.S. Army Corps of Engineers
441 G Street, N.W.
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RE: Docket ID No. COE-2015-0016; Comments to the Use of U.S. Army Corps of Engineers Reservoir Projects for Domestic Municipal and Industrial Water Supply

Lewis and Clark Natural Resource District ("LCNRD") appreciates the opportunity to submit these comments on the proposed *Use of U.S. Army Corps of Engineers Reservoir Projects for Domestic, Municipal and Industrial Water Supply* (the "Proposed Rule") issued by the United States Department of Defense ("DoD") and the Corps. LCNRD urges the Agencies to withdraw the Proposed Rule for the reasons set forth below.

LCNRD is a political subdivision of the State of Nebraska. For over 45 years, LCNRD's locally-elected board of directors and team of local employees has protected and managed groundwater spanning over 900,000 land acres along the Missouri River within Knox, Cedar, and Dixon Counties through a variety of programs assisting landowners with resource concerns.

LCNRD engages a wide range of stakeholders to address the many challenges associated with the impacts of development on water resources within its jurisdiction. Through its partnerships with the Nebraska Department of Natural Resources and other state and local authorities, LCNRD protects the quality of the rivers within its jurisdiction and facilitates agricultural production through the implementation of groundwater management plans, soil and water conservation programs, and a rural water project. LCNRD offers a variety of services including deep soil testing, cost-share programs for soil and water conservation measures, community assistance programs, sealed well abandonment programs, and regulation of chemigation. LCNRD also assists with extensive tree planting and distribution for conservation purposes including windbreaks, shelterbelts, wildlife habitat, firewood plantations, and Christmas trees.

Recreation, tourism, and groundwater-dependent agricultural greatly impacts LCNRD's local tax base. Each of LCNRD's programs, as well as local flood control, drainage, irrigation projects, and public health and education initiatives are funded in whole or in part by the local tax base. Each program must also be implemented in compliance with many existing layers of state-based, and in some cases, federal regulatory requirements. The cost and timeframe for proper implementation of these programs must be accounted for as part of LCNRD's budget requirements, levy of taxes, and as part of each of its grant funding applications.

Of primary importance to LCNRD is the Cedar Knox Rural Water Project ("Water Project"). The Water Project was initiated in 1977 in response to water quality concerns in Cedar and Knox counties. The system distributes water withdrawn directly from natural flow water flowing through Lewis and Clark Lake which is created by Gavins Point Dam located in Cedar County, Nebraska which dam is owned and operated by the Corps. The Water Project extends over 40 miles and provides water to several small communities, numerous local farmers, and a variety of recreational services. Over 800 rural hookups rely on the Water Project in an area where

groundwater is scarce or of poor quality when present. Any disruption or restriction in the supply to the Water Project could greatly harm individuals utilizing those hookups due to their lack of other viable water options.

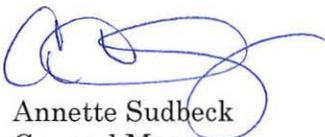
The impact of the Proposed Rule on small scale programs such as LCNRD's Water Project could be devastating. By requiring an easement for the withdrawal of natural flows pursuant to a state issued permit and requiring it to fit within the definition of surplus water, the Corps is in turn eliminating the stability of intake access by directly interfering with the entity's lawful use. The Proposed Rule has expanded the definitions of 'surplus water', 'domestic and industrial use', and 'water supply' too far by providing an inappropriate level of discretion to the Corps to determine the amount of water considered 'surplus'. The amount of water that may be withdrawn under these water supply agreements will likely be to the detriment of local agencies such as LCNRD and its constituents and programs such as the Water Project.

Additionally, the lack of an imposed time limitation on surplus water agreements is a matter of concern and adds to the overly broad scope of the Proposed Rule. The individuals and communities relying on the Water Project for consistent and quality water supply have no other options for water. Moreover, the Rule attempts to determine a 'reasonable' price due for access to such surplus waters without sufficient safeguards resulting in potentially prohibitive pricing. Many of the areas served by the Water Project are lower income areas that cannot afford any increase in the existing price to access the water.

Recreation, tourism, rural community water projects, and groundwater-dependent agriculture rely upon effective and dependable access to natural flows and water impounded by reservoir projects operated by the Corps. The Corps has failed to engage small governmental jurisdictions, such as LCNRD, in an analysis of the impacts of the Proposed Rule and has effectively ignored the current efforts by state and local entities to properly manage water resources and development activities. By implementing such broad and sweeping policies to govern the usage of water in Corps reservoirs, the Agencies have intrusively expanded the role of the federal government in water supply management.

For these reasons, LCNRD requests that the Proposed Rule be withdrawn, as the increase in scope of the Corps control over surplus water withdraws adds uncertainty and inconsistency to the amount of water that will be available to state and local entities.

Submitted on behalf of the Board of Directors,



Annette Sudbeck
General Manager

Lewis and Clark Natural Resources District