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Reclamation 2007 Interim Guidelines SEIS Project Manager
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Via email to CRinterimops@usbr.gov

Re: San Xavier District of the Tohono O'odham Nation Allottees Association Comments on Bureau of Reclamation Near-term Colorado River Operations Revised Draft Supplemental Environmental Impact Statement

This letter constitutes the comments of the San Xavier Allottees Association (SXAA) on the Revised 2023 Near-term Colorado River Operations Revised Draft Supplemental Environmental Impact Statement (DSEIS). The SXAA is a non-profit organization representing individual Indian trust allotment landowners on the San Xavier Indian Reservation, San Xavier District, Tohono O'odham Nation, since 1991. The mission of the Association is: "To assist San Xavier Allottees to preserve, improve their land and to educate them on water rights, environmental protection, and economic development."

Introduction

The San Xavier Reservation encompasses the traditional O'odham Village of W:ak adjacent to the Santa Cruz River in Pima County, AZ. The Reservation comprises approximately 71,000 acres.

More than 41,000 acres of the San Xavier Indian Reservation were allotted as individual Indian trust allotments pursuant to the General Allotment Act of 1887 (Dawes Act). These allotments originally had access to water for irrigation, livestock and domestic use from the then-free-flowing Santa Cruz River on the Reservation and good quality groundwater. Each allotment held an appurtenant Indian Winters Doctrine water right. Beginning in the late 19th century; the city of Tucson, the Asarco Mining Company, the Farmers Investment Company and, ultimately, 1800 other groundwater users in the Tucson Basin depleted groundwater to such a degree that the Santa Cruz River became ephemeral, flowing only during intense storm events. Diversions from the Santa Cruz River and ditches supplying an original 2,300 acres of irrigated farmland on the

Reservation had to be abandoned. Irrigation wells constructed to provide replacement groundwater to the farms, then consolidated as the San Xavier Cooperative Farm, went dry in the early 1980s because pumping by Tucson and other surrounding users caused the water table to drop precipitously. The San Xavier Cooperative Farm was forced to cease operations for lack of water. 4,000 acres of riparian cottonwood and mesquite bosque habitat along the Santa Cruz River on the Reservation were dried up and destroyed. Unlined tailings ponds maintained by the Asarco Mining Company on the Reservation polluted the groundwater beneath the southeastern portion of the Reservation with sulfate.

The United States filed a lawsuit, *United States v. Tucson, et al.*, in 1975. The then Papago Tribe filed a similar lawsuit soon after. Both lawsuits sought to enjoin further groundwater pumping in areas affecting the Santa Cruz River and the groundwater table on the Reservation.

Congress enacted a putative Papago tribal water rights settlement in 1982, the Southern Arizona Water Rights Settlement Act (SAWRSA). The San Xavier District (SXD) and the SXAA successfully opposed implementation of the Act because, although it provided 66,000 AFY of Central Arizona Project (CAP) water to the Papago Tribe (now Tohono O'odham Nation) and funded the rehabilitation and extension of the Cooperative Farm, it did not protect or ensure a water supply to the San Xavier Reservation. Consequently, the SXD and SXAA successfully forced renegotiation of the settlement. The amended settlement was enacted by Congress as the Southern Arizona Water Rights Settlement Amendments Act of 2004, Title IV of the 2004 Arizona Water Settlements Act. SAWRSA became effective and enforceable on December 14, 2007. In addition to providing the SXD with more than $21 million in the nature of damages for the loss of Farm production and the Santa Cruz River bosque, the renegotiated settlement guarantees the SXD and the San Xavier Cooperative Farm 35,000 AFY of "first right of beneficial use" water out of the 66,000 AFY. This water is delivered via the CAP and the CAPlink pipeline on the Reservation. It also provides for the rehabilitation and extension of the San Xavier Cooperative Farm to the Reservation's historically irrigated 2,300 acres.

Renewed farming on the Reservation, reduced pumping of the city of Tucson's Santa Cruz wellfield adjacent to the Reservation, operation of the Pima Mine Road recharge facility adjacent to the Reservation, and the Asarco Mining Company's use of some CAP Water instead of groundwater have improved the water table on the Reservation. However, the particular geology of the Reservation makes this groundwater supply vulnerable to renewed depletion by nearby non-Indian wells.

Wa:k Village has existed as a farming community in its present location and Wa:k Tohono people have irrigated since pre-historic times. Farming is the basis of and integral to the culture of the Community. Aside from its economic benefits, the importance of water to the Community for farming, livestock and domestic purposes cannot be overstated. The very name of Wa:k Village refers to water. Wa:k translates as "place where the water goes under." The failure of the SAWRSA CAP water supply to the SXD (and Tucson if it returns to groundwater dependency) would be catastrophic to Wa:k. Under SAWRSA, Tucson, the Farmers Investment Company and the Asarco Mining Company, defendants in the *United States v. Tucson* water litigation, have the right to return to the exclusive use of groundwater if the CAP water supply fails. The Wa:k Community may also return to groundwater, but the City and other pumpers in the Tucson Basin would quickly deplete the available groundwater supply on the Reservation and dry up the San Xavier farms yet again. The SXAA and the SXD will oppose any discretionary action which potentially reduces the SAWRSA CAP water supply.

Discussion

In the Revised DSEIS, the Bureau of Reclamation has analyzed one Proposed Action based upon a May 22, 2023, letter to the Reclamation Commissioner from water authorities in the Lower Basin states. The DSEIS assesses the effects of the Proposed Action in comparison to the No Action Alternative – to continue managing Glen Canyon Dam and the Lower Colorado River in accordance with the 2007 Colorado River Interim Guidelines and Drought Contingency Plan.

In essence, the proposal in the May 22, 2023, letter would commit the three Lower Basin states and water users in those states, to "conserve" (i.e., not use) at least 3 MAF during the 2023-26 period by allowing the BOR to purchase up to 2.5 MAF of "compensated conservation" with federal funds provided by the 2022 Inflation Reduction Act, and by committing to an additional .5 MAF of "system conservation" compensated by state and/or local entities, or uncompensated. The letter also proposes to permit the BOR to modify the 2007 Interim Guidelines to allow a reduction in the minimum annual release from Glen Canyon Dam during the 2024-26 period from 7.0 MAF to 6.0 MAF if required to keep the elevation of Lake Powell above the minimum power pool elevation of 3,490.

Glen Canyon Dam operations in the 2023-26 period as proposed in the May 22, 2023, Lower Basin letter would be consistent with the existing 2007 Interim Guidelines and the Lower Basin Drought Contingency Plan (DCP) except as

modified by the provisions in paragraph 9 of the letter. This boils down to the difference between the No Action Alternative and the Proposed Alternative being a 2007 Guideline Glen Canyon Dam lower release limit of 7.0 MAF for the No Action Alternative and 6.0 MAF for the Proposed Alternative, plus 3.0 MAF of "system conservation" by Lower Basin users during the 2023-24 period.

The primary objective of the Proposed Action is stated in the Revised DSEIS § 2.6.4 at p. 2-7:

> [I]n extreme low-runoff scenarios * * * the No Action Alternative would perform worse than the Proposed Action in meeting the federal action's purpose of and need for ensuring 'that Glen Canyon Dam continues to operate under its intended design' and protecting 'Hoover Dam operations, system integrity, and public health and safety'…."

In short, the purpose of the Proposed Action is to modify the 2007 Interim Guidelines to lower the Glen Canyon Dam release limit of 7.0 MAF to 6.0 MAF annually, thereby marginally increasing the probability that the elevation of Lake Powell will not drop below the minimum power pool elevation of 3,490'. Hoover Dam operations will not per se be protected by the reduction in minimum releases from 7.0 MAF to 6.0 MAF, since any reduction in Glen Canyon Dam releases standing alone will lower the Lake Mead elevation. However, Hoover Dam operations would be protected by the "system conservation" component of the Proposed Action.

The estimated No Action Alternative median power production at Glen Canyon Dam is 225,799 MWh more compared to the Proposed Action over the 2024-26 period. See Table 3-46, Difference in Glen Canyon Powerplant Annual energy Generation Compared with the No Action Alternative, p. 3-252. At Hoover Dam the estimated median power production under the No Action Alternative is 296,360 MWh more than the estimated median power production for the Proposed Action. See Table 3-47, Difference in Hoover Powerplant Annual Energy Generation Compared with the No Action Alternative, p. 3-252.

The estimated No Action Alternative total estimated median power production from Glen Canyon Dam, Boulder Canyon Dam and Parker-Davis Dam is 753,157 MWh more than the Proposed Action over the period 2024-26. See Table 3-49, Total Difference in Annual Energy Generation Compared with the No Action Alternative, p. 3-253. The Action Alternative estimated median power production for the same period is less than the estimated median power production for the No

Action Alternative, but under the Proposed Action there is marginally less chance of Lake Powell dropping below minimum power pool. See Table 3-53, No Action Alternative – Total Annual Energy Generation, p. 3-255 and Table 3-57, Proposed Action – Total Annual Energy Generation, p. 3-256. The primary objective of the BOR's consideration of the Proposed Action, apart from the 3.0 MAF in system conservation promised by the Lower Basin water agencies for the four-year period 2023-26, is to capture the marginally lower probability of Lake Powell dropping below minimum power pool during the period 2024-26.

The No Action Alternative produces $8,554,000 more estimated median value in total power generation revenues from Glen Canyon Dam as compared to the Proposed Action. See Table 3-64, Difference in the Glen Canyon Powerplant's Economic Value of Electrical Energy Compared with the No Action Alternative, p. 3-262. The No Action Alternative produces $29,083,000 more value from power production at Boulder Canyon Dam than the Proposed Action. See Table 3-65, Difference in the Hoover Powerplant's Economic Value of Electrical Energy Compared with the No Action Alternative, p. 3-262. For Glen Canyon Dam, Boulder Canyon Dam, and Parker-Davis Dam combined, the total estimated median power production is $65,127,000 more for the No Action Alternative than for the Proposed Alternative. See Table 3-67, Total Change in the Economic Value of Electrical Energy Compared with the No Action Alternative, p. 3-263, and compare Table 3-68, No Action Alternative – Glen Canyon Dam Annual Economic Value of Electrical Energy, with Table 3-72, Proposed Action – Glen Canyon Dam Annual Economic Value of Electrical Energy. While acknowledging that statistically speaking the Proposed Action may result in lower power revenues, the Revised DSEIS states, nonetheless, that:

> Compared with the No Action Alternative, the Proposed Action would result in increased economic value of electrical energy at the Glen Canyon Powerplant under the driest conditions in 2026 and, therefore, would ensure that there would be sufficient resources available in the Basin Fund to Support Operations and maintenance. The Proposed Action has varying impacts on the economic value of electrical energy under the other hydrologic conditions but would typically negatively impact economic value of electrical energy and therefore the Basin Fund.

Revised DSEIS p. 3-269. Arguably, the statistically higher probability of higher power revenues over the 2024-26 period under the No Action Alternative is more likely to ensure that there will be sufficient resources available in the Basin Fund to Support Operations and maintenance.

The Proposed Action analyzed in the DSEIS has two components: 1) Lower Basin "system conservation" of 3.0 MAF during the 2024-26 period, and 2) increased flexibility in the Guidelines allowing the BOR to reduce the minimum annual releases from Glen Canyon Dam from 7.0 MAF to 6.0 MAF. The potential reduction in minimum Glen Canyon Dam releases would, standing alone, increase the potential for CAP and SAWRSA CAP Water shortages. The 3.0 MAF of "system conservation" promised by the Lower Basin states would reduce the potential for SAWRSA CAP delivery shortages.

The No Action Alternative combined with the 3.0 MAF of "system conservation" promised by the Lower Basin states and insisted upon by the Interior Secretary in public pronouncements prior to the Lower Basin water agencies' May 22, 2023, letter proposal would minimize the potential for SAWRSA CAP Water shortages and is the best solution from the perspective of the SXAA. Moreover, the No Action Alternative coupled with the 3.0 MAF of "system conservation" is statistically likely to provide higher and more valuable power production than the Proposed Action.

Conclusion

The San Xavier Allottees Association opposes the BOR's adoption of the Proposed Action and supports the No Action Alternative because the Proposed Action will increase the risk to the San Xavier District of shortages in its entitlement of SAWRSA CAP Water. The Proposed Alternative will allow the BOR to reduce annual deliveries of water to the Lower Basin from the current (No Action Alternative) lower limit of 7.0 MAF to a lower limit of 6.0 MAF to keep the elevation of Lake Powell above 3,490' for power generation purposes. The BOR's analysis of various hydrologic scenarios for the 2024-26 period shows relatively little improvement in the risk of Lake Powell falling below the 3,400' elevation as between the Proposed Action and the No Action Alternative, and a probability of substantially higher economic value of power generation under the No Action Alternative. We suggest that the BOR adopt the No Action Alternative and implement the provisions of the first 8 items in the Lower Basin's May 22, 2023, letter independently. Implementation of the first 8 paragraphs in the Lower Basin's proposal should not be conditioned upon the adoption of paragraph 9 because paragraph 9 does not benefit the Lower Basin, only the BOR by slightly lessening the risk that Lake Powell will drop below the 3,500' elevation and minimum power pool at 3,490' elevation. The Lower Basin should be expected to implement its proposed compensated and uncompensated conservation of 3.0 MAF during the

period 2024-26 given the availability of federal funds to compensate up to 2.5 MAF of conservation and given the Secretary's previously announced call to Lower Basin users to reduce annual use by 2-4 MAF. This will significantly reduce the risk of water supply shortages in the Lower Basin, whereas implementation of paragraph 9 of the Lower Basin's letter proposal will have the opposite effect.

Thank you for your consideration of the San Xavier Allottees Association Comments.

Sincerely,

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