



UPPER COLORADO RIVER COMMISSION

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December 11, 2023

Reclamation 2007 Interim Guidelines SEIS Project Manager
Upper Colorado Basin Region
125 South State Street, Suite 8100
Salt Lake City, UT 84138

VIA ELECTRONIC MAIL

CRinterimops@usbr.gov

RE: Comments on the Revised Draft Supplemental Environmental Impact Statement (“Revised Draft SEIS”) for Near-term Operations to Modify the 2007 Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead (“2007 Interim Guidelines”)

Dear Commissioner Touton,

The States of Colorado, New Mexico, Utah, and Wyoming (collectively, the “Upper Division States”) acting through the Upper Colorado River Commission (“UCRC”), respectfully submit the following comments to the Bureau of Reclamation’s (“Reclamation”) October 25, 2023, Revised Draft SEIS to modify the 2007 Interim Guidelines to address current and foreseeable conditions beginning in October 2024 through the remainder of the interim period. An initial Draft SEIS was released by Reclamation in April 2023 (“First Draft SEIS”) and subsequently replaced with the October 2023 Revised Draft SEIS. We appreciate your consideration of our comments.

Hydrology and Current Conditions

While hydrology improved in 2023, the risks of declining below critical elevations in Lake Powell and Lake Mead persist. Significant uncertainty continues in the Colorado River system. This is evidenced by the comparison between the projected inflows in April 2023 and the actual observed inflows at the end of Water Year 2023, which showed a decline of about 1.0 million acre-feet (maf). Most recently, Reclamation has reported an approximate 776,000 acre-foot drop in forecasted Lake Powell inflow between the October and November 24-Month Studies. Clearly, one good runoff will not recover the Colorado River system after enduring 23 years of drought and overuse in the Lower Basin. Continued dry conditions in conjunction with the imbalance between available supply and demand in the Lower Basin will result in the Colorado River system remaining destabilized, the condition the SEIS is intended to address.

Moreover, reservoir conditions have not improved sufficiently to warrant the change in action and approach from the First Draft SEIS to the Revised Draft SEIS. Currently, Lake Powell is 37% full and Lake Mead is 34% full. Although Lake Powell gained approximately 50 feet during WY 2023, recent history demonstrates that Lake Powell can just as easily

fall 50 feet in a single year (see WY 2021). In fact, Reclamation’s current modeling shows a risk of declining to critical elevations in Lake Powell by the end of 2024. In June 2022, when Commissioner Touton called for 2 to 4 million acre-feet per year of water conservation in response to a failing system, Lake Powell was approximately 27% full and Lake Mead was approximately 28% full. The risk to the system has not abated. Therefore, the urgency remains today; the improved hydrology of WY2023 has not solved the problem. It is not clear that the Proposed Action will be sufficient if dry hydrology persists.

Proposed Action Alternative

1. Lower Basin Reductions

Appropriately, the Revised Draft SEIS does not analyze the entire Colorado River System, but instead only focuses on addressing the low-runoff and low-reservoir conditions at Lake Powell and Lake Mead. The Proposed Action Alternative focuses primarily on additional Lower Basin use reductions, adopting the system conservation option put forward in the Lower Division Proposal.¹

Under the Lower Division Proposal, the Lower Division States represent that they will reduce use by an additional 3.0 maf by the end of 2026, **above and beyond the reductions and contributions required by the 2007 Interim Guidelines and the Lower Basin DCP**. According to the language of the Lower Division Proposal, these additional reductions are to be “mandatory, enforceable, measurable, verifiable, and non-retrievable.” However, the Revised Draft SEIS does not require mandatory or enforceable reductions. On the contrary, the Revised Draft SEIS explicitly acknowledges that the proposed reductions are not enforceable.² Further, not all the system conservation agreements considered in the Revised Draft SEIS have been fully executed, including agreements for conservation in 2024. As a result, the Proposed Action Alternative relies on speculative reductions which, even if the anticipated agreements are executed, cannot be legally enforced to produce the conservation modeled in the Proposed Action Alternative. Reclamation must ensure that the SEIS conservation is mandatory and enforceable, as represented in the Lower Division Proposal, so that the Proposed Action Alternative can achieve the purpose and need identified in the Revised Draft SEIS.

Moreover, the process by which the 3.0 maf in additional reductions will be measured and accounted for is unclear at this point. The Revised Draft SEIS does not specify what portion of the Proposed Action Alternative, if any, may be achieved through ICS creation or ICS conversion. ICS conversion will provide no additional wet water benefit to the system and does not address the purpose and need of the SEIS. The 3.0 maf of reductions through 2026 should be achieved through new, additional, and verifiable conservation projects. Further, these reductions should be accounted for separately from any ICS conversion activities to ensure wet water conservation is in fact achieved.

¹ Lower Division States’ letter to U.S. Bureau of Reclamation Commissioner Camille Calimlim Touton dated May 22, 2023.

² According to the Revised Draft SEIS, the assumed SEIS conservation volumes reflect projected volumes as of June 2023 from executed agreements, agreements that are under development, and planned operations. The assumptions are subject to change. The SEIS conservation volumes do not represent mandatory shortages, and they do not, in any way, commit specific water users to reductions in use. Revised Draft SEIS at D-26.

The Revised Draft SEIS does not specify what portion of compensated system conservation, if any, is included in mandatory shortages and reductions required by the 2007 Interim Guidelines and Lower Basin DCP. The 3.0 maf reductions should be in addition to those mandatory shortages and reductions. Finally, a significant amount of the reduction in Lower Basin use in 2023 occurred as a result of reduced demand due to abnormally wet hydrology and not due to conservation activities. The 3.0 maf of system conservation should not include reduced releases from Lake Mead resulting from wet hydrology. For example, Reclamation reports that the impact of Hurricane Hilary increased Lake Mead elevations by several feet due to runoff and reduced uses. Reclamation must provide clear, consistent, and transparent accounting of what constitutes new and additive conservation efforts rather than fortuitous hydrologic events.

2. Operational Tiers

The First Draft SEIS modified the operational tiers of the 2007 Interim Guidelines to change operations at lower reservoir elevations. Specifically, the First Draft SEIS removed balancing when Lake Powell was below elevation 3,575 feet, and provided set releases of 6.0 maf with adjustments made, if necessary, in light of the April projections for end-of-water-year levels. However, the Revised Draft SEIS reverts back to the current 2007 Interim Guidelines operational tiers, maintains balancing at lower Lake Powell elevations, and provides for a reduction of releases from Lake Powell down to a minimum of 6.0 maf to maintain elevation 3,500 feet. The Revised Draft SEIS changes the approach from a **set 6.0 maf release** from Lake Powell to a **potential 6.0 maf schedule**. The UCRC is concerned that the Proposed Action Alternative does not meet the purpose and need because it reverts to the operational tiers and opportunities for balancing which do not adequately protect the system or offer Reclamation the tools it seeks to obtain through this SEIS. Accordingly, the UCRC requests that, in the Final SEIS, Reclamation reinstate the modifications to the operational tiers identified in the First Draft SEIS.

3. Protection of Lake Powell

In its “Dear Reader Letter,” Reclamation acknowledges that the alternatives in the First Draft SEIS are more protective of Lake Powell than the current Proposed Action.³ Reclamation also asserts that the SEIS should include cautious approaches to protecting critical elevations. It is therefore our expectation that the Final SEIS will be equally protective of Lake Powell as were the other alternatives analyzed during the SEIS process, as described above.

4. Reserved Authority

The Revised Draft SEIS states that “[t]he Secretary reserves the right to operate Reclamation facilities to protect the Colorado River system if hydrologic conditions require such action.” This reservation is overly broad and undefined.

Purpose and Need

³ “Based on June 2023 hydrology modeling, Action Alternatives 1 and 2 show no risk of reaching critical elevations at Lake Powell due to a protection elevation provision, while the Proposed Action shows a decreased risk of reaching critical elevations compared with the No Action Alternative.”

The hydrology in winter and spring 2023 marginally improved system storage. However, the purpose and need for the SEIS has not changed. The Preferred Alternative must meet the SEIS purpose and need.

The No Action Alternative does not meet the purpose and need for the SEIS. The No Action Alternative does not protect the system from collapse in case of continuing dry hydrology, and it does not offer sufficient tools for Reclamation to address low reservoir elevations and to operate the system more sustainably.

Moreover, the Proposed Action Alternative may also not meet the purpose and need. The Proposed Action Alternative relies on voluntary Lower Basin reductions through agreements, some of which have yet to be executed and may not be signed until after a Record of Decision is issued for this SEIS. This may not create sufficient additional tools for Reclamation to address the projected ongoing drought conditions and may prove insufficient to protect Lake Powell and Lake Mead.

The UCRC acknowledges that Secretarial actions to reduce releases from Glen Canyon Dam may be needed under the Revised Draft SEIS if Lake Powell's elevation in the minimum probable forecast is projected to drop below 3,500 feet in the following 12 months. Actions pursuant to Section 7.D. of the 2007 Interim Guidelines are discussed in the Purpose & Need section of the Revised Draft SEIS and, in that section, the Department of the Interior finds that extraordinary circumstances currently exist. Reduced releases from Glen Canyon Dam that may result from the SEIS shall not constitute an action by the Upper Division States or the UCRC for the purposes of determining compliance with Article III of the 1922 Compact. Any revision to Section 6.C of the 2007 Interim Guidelines must be taken pursuant to Secretarial authority only and will not constitute consent, endorsement, or acquiescence from the Upper Division States.

Alternatives Analysis

1. Reasonable Range of Alternatives

The UCRC believes that the alternatives analysis would have been more complete had Alternatives 1 and 2 been retained in this Revised Draft SEIS. However, more critical is the need for Reclamation to craft a mechanism by which the reductions in the Final SEIS will be mandatory and enforceable and Lake Powell levels will be adequately protected.

2. Sufficiency of Impacts Analysis and LTEMP

Operations pursuant to the LTEMP dictate monthly, daily, and hourly releases from Glen Canyon Dam. The LTEMP does not impact annual operations at Glen Canyon Dam but rather is tailored to the annual release dictated by other components of the Law of the River. Importantly, the projected annual release from Glen Canyon Dam becomes the basis for the monthly LTEMP operations. The LTEMP ROD relied on modeling and analysis of minimum annual releases of 7.0 maf from Glen Canyon Dam. However, the Proposed Action Alternative in the Revised Draft SEIS considers a 6.0 maf annual release from Glen

Canyon Dam. It is unclear how Reclamation intends to operate a 6.0 maf annual release “while maintaining LTEMP minimum flows” and being “consistent with the LTEMP ROD” when those flows were determined based on a minimum 7.0 maf annual release.

3. Impacts Analysis

The Revised Draft SEIS includes a statement under Section 2.8.5 that “[w]hile Reclamation has not carried forward an alternative that focuses explicitly on accounting for evaporation, seepage, and system losses, the Proposed Action contemplates conservation amounts similar to those that would be assessed based on evaporation, seepage, and system loss calculations in the proposals received.” In this Revised Draft SEIS, Reclamation may not have considered the full range of impacts and risks to the system, due to the lack of explicit reporting and accounting of evaporation and losses, and the lack of consumptive uses and losses reporting for the Lower Basin. The Notice of Intent for the SEIS included a statement that Reclamation would consider accounting of evaporation and system losses in parallel with this effort. Like the First Draft SEIS, the Revised Draft SEIS includes a statement that Reclamation intends to publish in 2023 an informational report addressing potential methodologies to support assessments for evaporation and other system losses in the Basin. 2023 is almost over and this report has yet to be published. Information on this topic is an essential part of the SEIS analysis that is missing.

Finally, we have compiled a number of technical comments related to the other resources considerations in the Revised Draft SEIS. These technical comments are attached in Appendix 1 to this letter and are incorporated herein by reference.

The Upper Division States, through the UCRC, thank you for the opportunity to provide these comments on the Revised Draft SEIS. We look forward to continuing our partnership with you, the Lower Basin States, Mexico, Basin Tribes, water users, and stakeholders, as we move forward in protecting and managing this critical resource.

Sincerely,



Chuck Cullom
Executive Director
Upper Colorado River Commission

APPENDIX 1

To UCRC Comment letter on the Revised Draft SEIS for Near-term Operations to Modify the 2007 Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead

Other Resource Considerations

The Upper Division States and the UCRC have identified resource considerations for further evaluation in the SEIS. These considerations are presented below.

Salinity

“Implementing measures on private agricultural lands results in salinity controls.” (pg3-85). This is a bit of a misleading statement. The largest single salinity control project (Paradox Valley Injection Well) is on federal land and many other salinity control efforts also occur on federal lands.

Temperature

Does Figure 3-28 (pg 3-102) Exceedance Probability for Temperature and Salinity Concentrations in Glen Canyon Dam Releases take into account that the temperature prediction model for Glen Canyon Dam releases is known to forecast temperatures that are up to 3 degrees C lower than observed release temperatures during critical times of the year (smallmouth bass spawning period...)? The failure of the model to accurately predict water temperatures of Glen Canyon Dam releases during critical periods is well-known and should be addressed in this SEIS. Keeping Lake Powell storage higher would help provide cooler water for releases.

Air Quality

This seems to be a very inadequate analysis of potential changes to air quality if IID and CVWD take additional shortages under the Proposed Action. Increased dust could have impacts to human health and Environmental Justice populations. The SEIS acknowledges the expedited exposure of the Salton Sea lake bed under the Proposed Action (pg 3-146), up to 40,224 acres of lake bed could be exposed through 2026 (pg 3-147), so the complete impacts of this should be analyzed and presented in this SEIS.

Assumptions – Vegetation, Wildlife, and Special Status Species

“The vegetation and wildlife and fish assumptions are the same as those described in the 2007 FEIS” (pg 3-187). Is this appropriate given what we now know about the presence and threat of warmwater invasive species below Glen Canyon Dam?

Cumulative Effects

“Under most hydrologic traces, there was very little relative difference in smallmouth bass population growth between the No Action and Proposed Action scenarios (Eppheimer and Yackulic 2023)(pg3-203).” Does this account for the inaccuracies of the temperature model which currently under-estimates temperatures by up to 3 degrees Celsius during portions of the year that are critical for smallmouth bass spawning and growth?

“Smallmouth bass entrainment rates are expected to be similar between the No Action and Proposed Action scenarios under most, but not all, hydrologic scenarios (pg 3-220)”. Does this account for the inaccuracies of the temperature model which currently under-estimates temperatures by up to 3 degrees Celsius during portions of the year that are critical for smallmouth bass spawning and growth?

Table 3-30

This should address the potential impacts on fishes (native and invasive) of algal blooms and dissolved oxygen changes due to increased temperatures and a decrease in the range of flow fluctuations.

Proposed Action – Species Tables

Why are there not species impacts tables similar to those in the No Action section (pg3-218)? See Tables 3-30 through 3-34.

Power Marketing

Critical information is missing from this section, or other parts of the SEIS. The Colorado River Storage Project Act (“CRSP”) resources are marketed under long term contract as an integrated project: changes at Glen Canyon Dam can also impact changes at Aspinall/Flaming Gorge, and vice versa. In regard to the “no changes” comment (Hydropower Generation section), while this is true of generation, the statement is not true of pricing. The CRSP rate design has changed significantly since 2007, due in large part to drought conditions and the need to maintain a stable Upper Colorado River Basin Fund. The CRSP firm electric service customers have taken on additional responsibility regarding replacement power, which clearly is impacted by changed operations of the CRSP generation resources.

Environmental Justice

The Environmental Justice section seems to be lacking in that it does not address impacts to CRSP customers outside of the Lower Basin. A significantly changed circumstance since the 2007 Guidelines were completed is the allocation of CRSP resources to 52 Tribes. Impacts from the Proposed Action should be assessed not only for the tribes listed in 3.17.1 from a water delivery standpoint, but also for all the tribes that are now CRSP firm electric service customers from a hydropower impact standpoint. In addition to those 52 tribes, numerous rural electric cooperatives receive CRSP hydropower. Some CRSP customers receive a “bill credit” intended to represent the federal resource benefit. When there is a change in the CRSP resource provided, those entities may receive a smaller (or larger) credit, meaning the federal benefit anticipated since 2004 may be different. Each community is able to decide how best to use the bill crediting benefit in their community. The rate impact to benefit crediting customers should be included in the analysis presented in the DSEIS.

The Environmental Justice discussion section related to air quality also seems to be lacking, as does the Air Quality Section. Where are the modeling results related to fugitive

dust and other metals and other contaminants that are contained within the dust? The SEIS analysis would benefit from inclusion of this data.