

Ute Mountain Ute Tribe
Office of the Chairman

Mr. Manuel Heart
P.O. Box 99
Towaoc, CO 81334

December 20, 2022

Via Electronic Mail to CRinterimops@usbr.gov

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

Re: Notice of Intent to Develop a Supplemental Environmental Impact Statement for Glen Canyon and Hoover Dams

Dear Department of Interior:

The Ute Mountain Ute Tribe hereby submits this response to the Department's Notice of Intent to develop a Supplemental Environmental Impact Statement for Glen Canyon and Hoover Dams. We are grateful that the Department of Interior has specifically invited Tribes to respond and we look forward to working with you to ensure that future operations of Glen Canyon and Hoover Dams take into account Tribal concerns, expertise, and input.

What follows are specific issues that the Ute Mountain Ute Tribe believes must be included in any analysis of the impacts of management of the Colorado River. These are not listed in any particular order and do not represent the full, comprehensive list of issues the Tribe believes should be considered.

Energy Production

In order to mitigate and prepare for the potential impacts to power generation, the United States can benefit from energy produced by Tribes, mainly on Tribal lands. The Ute Mountain Ute Tribe, for instance, has secured numerous contracts for solar power development and several others are under consideration. The Tribe is also pursuing a closed loop hydro-electric project (pumpback storage) that will serve as a giant battery capable of producing substantial power on short notice.

In order to achieve the best results for the Tribe and the energy developers, the Tribe has sought funding and technical assistance from various federal agencies with varying degrees of success. In order to ensure these projects are completed in a timely manner and are ready to

assist meeting the gap in energy production that would result if either Glen Canyon or Hoover Dam's water levels fell below the power pools, the United States must prepare for the inclusion of Tribal energy in its energy production portfolio as well as assisting Tribes in developing these projects, and must also assess the environmental impacts of these projects in order to accommodate an effective transition to Tribal renewable energy as part of River operations.

Consultation

As the United States considers alternatives and develops protocols for management of the Colorado River, it must not only consult with Tribes who are impacted by such management, but it must also ensure that Tribes are amenable to the management protocols developed and that the protocols do not unreasonably impact Tribal water rights and operations. If Tribes do not support the protocols that are developed and do not, therefore, cooperate, then the River cannot be managed effectively. Consultation must be meaningful, and must not be reduced to a simple recitation of the intentions of the United States; Tribes must be given the opportunity to develop the protocols and design the management system.

Sovereign Participation

Separate and apart from the United States' obligation to consult with Tribes that may be affected by its management protocols, Tribal participation must also include an invitation to join a group of sovereigns, as sovereigns, which will meet to ensure their concerns and suggestions are fully and properly received and evaluated in a greater, regional context. Tribes bring an important expertise and understanding that no other entity can presume to represent, and this expertise and understanding is necessary for the proper development of effective management guidelines and protocols.

Amendments to Current Laws

As the United States considers alternatives, the Tribe believes its deliberations must include an analysis of the current laws affecting the Colorado River and their effectiveness. Many of the laws are not only outdated and no longer reflect today's technology and science, but they may also serve to restrict the implementation of sound and reasonable practices and solutions.

Numerous Tribal water rights settlements contain restrictions on place of use, for instance, and it is important to understand the impacts of these restrictions and to identify reasonable improvements to River management that cannot be implemented because of legal restrictions.

Tribal Water

The failure of the past cannot be repeated and we all now understand the importance of including Tribes in discussions about the Colorado River. No discussion or serious consideration should ever have the effect of diminishing Tribal access to water, and this must also apply to unidentified rights as well.

Today, some water that is rightfully under the control of and belonging to Tribes is bypassing the reservations and is entering the Colorado River System to be used in some manner or by some entity that was never paid for and was never planned by or consented to by the relevant Tribes. This occurs despite the best efforts of Tribes to put their water to effective use; efforts which are often stymied by ineffective project design, lack of funding, or legal impediments. Whether a Tribe is actively consuming its water, it is unfair for Tribal water to be utilized in any manner without the Tribe's consent which must also include proper compensation for the use of the water.

Thank you for accepting these comments and we look forward to working with you to develop effective river management protocols.

Respectfully,

A handwritten signature in blue ink that reads "Manuel Heart". The signature is written in a cursive style with a large initial "M".

Manuel Heart
Chairman