United States Department of the Interior

FISH AND WILDLIFE SERVICE

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In Reply Refer To:
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Memorandum

To: Carly Jerla, Senior Water Resources Program Manager, Bureau of Reclamation

From: Regional Director, Southwest Region AMY LUEDERS Digitally signed by AMY LUEDERS Date: 2022.09.01 07:45:25 -06'00'

Subject: Request for Input on Development of Post-2026 Colorado River Reservoir Operational Strategies for Lake Powell and Lake Mead Under Historically Low Reservoir Conditions (87 FR 37884)

The U.S. Fish and Wildlife Service (USFWS) appreciates this opportunity to comment on Bureau of Reclamation's (Reclamation) Pre-NEPA Scoping Post-2026 Colorado River Operational Strategies as posted in the Federal Register (FR) notice on June 24, 2022 (87 FR 37884). Further, our comments here are with the understanding that it is Reclamation's intention to formally initiate the NEPA process through a Notice of Intent to Prepare an Environmental Impact Statement (EIS) in early 2023. We recognize the complexity, scope, and importance of the task and offer to assist Reclamation throughout the process. We have prepared our comments, as suggested by Reclamation, thematically to address issues related to the process and substance of a future NEPA action.

Within the Colorado River Basin (Basin), the USFWS is represented by two regional offices, the Southwestern Regional Office and the Mountain-Prairie Regional Office. Our regional offices house individual programs for Ecological Services, Fisheries and Aquatic Conservation, the National Wildlife Refuge System, External Affairs, and Recovery Programs. The Basin itself has been divided politically into the Upper Colorado River Basin (UCRB) and the Lower Colorado River Basin (LCRB) at Lee's Ferry, Arizona and although our regional offices are not divided on these lines many of our programs are. The following comments represent the diverse perspectives and unique experiences of our two FWS regions and the various programs.

Process: Stakeholder Engagement

The USFWS recognizes that this EIS will involve a large geographic area, one that crosses the international boundary between the United States and Mexico, intersects seven states, includes multiple Native American Indian Tribes, and influences the lives of more than 40 million people. As such, it is our expectation that engagement in this process will reflect the geographic, cultural, and demographic breadth of stakeholders who use, and live within, the Basin. We recommend Reclamation hold a series of in-

person public meetings at strategic locations throughout the Basin and the adjacent areas that receive Colorado River water. Further, during the stakeholder engagement process we recommend inviting participants from remote regions and through general and water and power utilities mailings. We would provide a USFWS representative to attend these public meetings. To capture the extent of potential stakeholders, we recommend seeking engagement from groups with knowledge regarding river ecology and integrated water planning, recreation, agriculture, mining, forestry, or any of the many users of Colorado River waters in the project area. To include a diverse range of stakeholder perspectives, we recommend recruiting outreach specialists who represent members of the greater stakeholder community.

Process: Effective Coordination with Tribes
The USFWS appreciates and supports Reclamation's recognition that Tribes are critical stakeholders in this process and the commitments to Tribal engagement identified under the Federal Register pre-scoping section regarding engagement and inclusivity. We request that the coordination be as broad as possible to ensure that all Tribes with a vested interest in the Basin are stakeholders in this process. In addition, given Tribal sovereignty and our special relationship with each Tribe based on our trust responsibility, outreach efforts should not be bound by public scoping under NEPA. We recommend that Tribes be given the opportunity for government-to-government consultation as early in the overall planning process as possible. Furthermore, the USFWS requests Reclamation involve contacts in our Director's Office (Special Assistant on Native Affairs) and our National Native American Programs Coordinator.

Process: Ensure Adequate Time Allocated for ESA Section 7 Consultation
The scale of this effort is large and as such, the USFWS recommends an adequate amount of time for a coordinated Biological Assessment and Section 7 ESA process. Pre-scoping and scoping for the Section 7 consultation process should be allowed so that the breadth of the project is fully considered in the assessment of resource impacts. To assist in this process the EIS evaluation should include a full set of detailed resource studies and impacts modeling. We request involvement in the development of these models.

Process: USFWS is Committed to the Entire Process
The USFWS is looking forward to conversations with Reclamation regarding "cooperating agency" status on this Federal action. According to CEQ regulation (40 CFR 1508.5), "cooperating agency" means any Federal agency, other than a lead agency, that has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposed project or project alternative. The USFWS is the lead agency for federally listed species, we possess expertise regarding these species, and their habitat needs. Additionally, our staff possess special expertise with respect to the full environmental impact involved in this project. We will ensure that USFWS staff are available to attend public meetings and provide technical outreach to stakeholders. Finally, we also recommend that our organization be part of a Department of the Interior (DOI) team established to develop proposed alternatives.

Substance: Consideration of Planning for the Colorado River System
The USFWS appreciates Reclamation's assessment of 'changed circumstances since adoption of the 2007 Interim Guidelines'. In addition to changed circumstances there is also new understanding, or perhaps new recognition, of several aspects of Colorado River water operations, infrastructure, services provided, and the inextricable link between the UCRB and the LCRB. Chief among recognitions is that the Basin cannot sustainably produce the quantity of water that has been allocated. We suggest Reclamation update some of the information in the 'Colorado River Basin Water Supply and Demand Study' of 2012 for use in this process. Drought and a changing climate are factors which have potentially accelerated the current water shortage crisis. However, the root cause, a structural water deficit, has been recognized for nearly 50 years. The USFWS looks forward to furthering efforts to integrate management of the Colorado River system.

Another changed circumstance is recognition of the benefits of resilient reservoirs. These benefits include substantial contribution to human health and welfare (e.g., power production; water use), conservation of threatened and endangered species (e.g., environmental flows; water quality disadvantaging invasive species), and recreation (e.g., boating; fishing). We recognize the Basin reservoirs have resulted in environmental impacts. However, in the Grand Canyon, cooler water released historically from Glen Canyon Dam is thought to have prevented harmful warmwater nonnatives from establishing and causing significant impact to federally threatened Humpback Chub (*Gila cypha*). While cold water released from Glen Canyon Dam can negatively affect Humpback Chub and federally endangered Razorback Sucker (*Xyrauchen texanus*), the colder water temperature is likely less of an impact than predation by harmful warmwater nonnative fish such as Smallmouth Bass (*Micropterus dolomieu*). Harmful warmwater nonnative fish are likely to establish in the Grand Canyon due to power plant entrainment and reproduction facilitated by warm water released when there are low reservoir water levels in Lake Powell.

The USFWS recommends Reclamation manage for both water quantity and water quality. We recommend Reclamation consider whether water temperature can be operationally managed alongside water elevation for the Basin to ensure that trust resources are not impacted any further. Finally, we recommend that future water operations allow flexibility to adjust dam releases in response to real-time information (e.g., forecasts during the snow accumulation season).

Substance: Impacts to ESA Listed Species, Critical Habitat, and Usable Habitat
Within the watershed of the Basin, there are 126 species of terrestrial and aquatic ESA protected species, and 42 designated critical habitats. While the USFWS does not believe that this particular action will touch each of these species, we do recognize the breadth of the issue and that it will have long-lasting consequences to the representation, resilience, and redundancy of many species. Of particular importance to this issue are the native aquatic and semi-aquatic species in the Basin, as well as those that use aquatic and riparian resources as part of their life history.

The USFWS recommends that operations provide for critical flows for the ESA-listed species and critical habitats integral to supporting recovery programs. If flow recommendations are used to guide water deliveries during biologically relevant times for ESA-listed species, then mutual goals can be achieved through this activity. Additionally, we recommend that post-2026 operational releases allow for prioritization of flows during critical times for biological processes. Furthermore, we recommend consideration of dam infrastructure modifications to reduce risk of establishment of invasive species, including modifications that could enhance other resources such as hydropower generation at the bypass tubes.

Substance: Water Rights at the National Wildlife Refuges and National Fish Hatcheries
Within the Basin there are seventeen National Wildlife Refuges (NWRs) and four National Fish Hatcheries (NFHs). The USFWS sees an opportunity to rewrite the narrative for water usage in the Basin. Currently a disincentive exists for water rights holders who do not use their permitted water allocation (i.e., “use it or lose it” policy). We recommend exploring opportunities to temporarily sell or rent partial or whole permitted rights and find ways to incentivize water conservation. The USFWS commits to optimizing its water use on the NWR system for habitat management. The NWR lands are managed independently of each other and from other Tribal, local, state and federal conservation efforts.

Substance: Planning with a Sustainability Foundation
The USFWS recommends that the planning for this process prioritize a sustainability foundation to maintain the availability of the natural resource. In this manner water is managed from a replenishment perspective. The USFWS agrees that a more robust operational strategy for post-2026 is needed. Specifically, future operations should include linkages between basin water yield and allocation on a time basis that can provide water users with enough certainty to plan from. Operations should also maintain

reservoir levels that provide resiliency to support human health factors, environmental conservation (including conservation and recovery of threatened and endangered species), Tribal needs, recreation, and infrastructure preservation. We request consideration of long-term impacts to ecosystem processes caused by shorter-term water management. For example, even short periods of low flow can suppress river productivity in a manner that takes much longer to replenish. Similarly, one year of high production of a nonnative species can take many years to combat and control. Lastly, the Service appreciates and respects Reclamation's acknowledgment that Lakes Mead and Powell face extraordinary risks in the interim, and that additional actions are likely needed to protect human and natural resources (including potential reductions in use totaling millions of acre-feet). However, without effective and timely interim actions, we are concerned that establishment of Smallmouth Bass is likely in Grand Canyon. If Smallmouth Bass establish widespread populations in Grand Canyon, the Service is concerned that approximately 90% of the Humpback Chub in existence will be at risk of significant decline and in need of increased Endangered Species Act protection.

Thank you again for the opportunity to comment on this important issue. We stand committed and ready to assist Reclamation with the planning phase of the EIS. Please include the USFWS as early as possible so that we can provide input and be responsive to time intensive aspects of project requirements.

If you need assistance or additional information, please contact Heather Whitlaw, Arizona Ecological Services Field Office Supervisor, 806-773-5932 or heather_whitlaw@fws.gov

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