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Via E-Mail and U.S. Mail

Mr. Bruce Ellis
Bureau of Reclamation
Phoenix Area Office
PXAO-1500
6150 West Thunderbird Rd.
Glendale AZ 85306-4001

Re: The Pensus Group's Comments on the Draft Environmental Assessment for the Proposed Construction and Operation of the Scorpion Bay Marina and Yacht Club

Dear Mr. Ellis:

I am writing on behalf of David Maule-Ffinch and the Pensus Group to submit their comments on the Draft Environmental Assessment for the Proposed Construction and Operation of the Scorpion Bay Marina and Yacht Club. We are also submitting a copy of the Pensus Group's previously-submitted comments on the scoping notice, which are incorporated by reference in the comments filed today.

If you have any questions about this submission, please do not hesitate to contact me.

Sincerely,

/signed/

Cynthia Taub

**Comments of David Maule-Ffinch and the Pensus Group on
the Draft Environmental Assessment for the Proposed
Construction and Operation of the Scorpion Bay Marina and
Yacht Club, July 2006**

Dated: August 18, 2006

The Pensus Group appreciates the opportunity to comment on the Draft Environmental Assessment ("Draft EA") for the Proposed Construction and Operation of the Scorpion Bay Marina and Yacht Club, which was issued on July 20, 2006. Pensus currently operates the only marina on Lake Pleasant, the Pleasant Harbor Marina, under an agreement with the Maricopa County Water Conservation District. The Pleasant Harbor Marina was authorized in 1994 and currently has 680 wet slips in place, and over 550 dry storage spaces and 200 dry stack storage spaces. Additionally, Pleasant Harbor Marina is permitted for another 160 wet slips and 400 dry stack storage spaces.

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I. Introduction

Pursuant to the National Environmental Policy Act ("NEPA"), an Environmental Assessment must provide clear and convincing evidence that the proposal would not result in any significant impacts. The Draft EA fails to meet that standard. In fact, the proposed marina project involves numerous significant impacts that clearly require an Environmental Impact Statement ("EIS") to be prepared.

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As just one of many examples, the 1984 Plan 6 EIS established a carrying capacity of 546 boats on the Lake. As noted above, there are already over 1,400 boats stored in wet and dry storage in the existing marina. The proposed new marina would add up to another 1,000 boats. In addition, there are large numbers of boaters who launch their boats on the Lake just for the day. The exceedance of the Lake's carrying capacity by over 1,200 boats will have a significant impact on the environment and on public safety, yet the issue is largely ignored in the Draft EA.

There are numerous other impacts that would likely rise to the level of significance, but are left unaddressed by this Draft EA. The BOR must start from scratch by performing an actual needs analysis for the project and preparing an EIS that assesses reasonable alternatives to the current proposal and fully addresses all of the impacts of the entire scope of the proposed project and its alternatives. Once the Bureau performs this required analysis, it will be clear that given the lack of need for the proposed marina, and its significant impacts on the Lake and surrounding environment, "no action" is the preferred alternative.

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II. BOR Must Reassess the Purpose and Need of the Marina Project

One of the most glaring problems with the Draft EA is its failure to assess the actual need for the marina. Instead of a needs assessment, the Draft EA simply refers back to the alleged commitment made to the project in the Plan 6 EIS. Thus, the “need” for this project is illusory – the “need” is based on an alleged commitment made in 1984, not on actual or current recreational needs. NEPA requires BOR to assess the impacts of a project before the agency becomes committed to it – the Bureau cannot rely on any prior “commitment” to avoid a full NEPA analysis of the project.

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Moreover, the assumption that BOR is already “committed” to this project leads BOR to conclude that there are no other alternatives to the current proposal and the “no action” alternative is not a real alternative. An agency may not define the purpose and need for a project so narrowly as to unreasonably limit the consideration of alternatives. *See, e.g., Westlands Waster Dist. v. United States Dep’t of the Interior*, 376 F.3d 853, 865 (9th Cir. 2004). In this case, the pre-defined purpose and need foreclosed a full consideration of alternatives and made the outcome of the NEPA review a foregone conclusion.

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If BOR had performed a proper needs assessment, it would have been clear that there is no need for another marina on the Lake. A marina has already been built on the Lake that meets the recreational opportunity discussed in Plan 6 of the EIS. The EIS recognized that there are four recreation sites proposed for the Lake, of which 12 acres were allocated to a marina. Subsequently, BOR approved the marina operated by Pensus Group, which occupies a total of 75-80 acres. Therefore, the marina project that was mentioned in the EIS (without being assessed) has already been more than met by the existing Pleasant Harbor Marina. Pleasant Harbor Marina currently has 680 wet slips in place, and over 550 dry storage spaces and 200 dry stack storage spaces. Additionally, Pleasant Harbor Marina is permitted for another 160 wet slips and 400 dry stack storage spaces. Thus, a new marina is not needed to satisfy any unmet demand or anticipated demand. Moreover, the proposed marina envisions few amenities to supplement those that already exist. There is nothing in the history of this project or the EIS that establishes a “need” for a second marina.

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In addition, we offer the following comments on specific aspects of the Draft EA’s discussion of the purpose and need for the project:

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- A. BOR asserts that the purpose of the Draft EA is to determine the “site-specific impacts from this proposed project . . .” DEA at 3.

This is a fundamental flaw of the Draft EA. The statement implies that this EA is being “tiered” off a prior NEPA document. However, as discussed more fully below, there is no prior NEPA document that established a need for, or discussed the impacts of, the current proposal. Moreover, NEPA is not a “site-specific” statute - it requires a “hard look” at the direct and indirect impacts of the project on the surrounding environment, as well as the cumulative impacts of this and other projects in the area. This document does not meet these fundamental requirements of NEPA.

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- B. The Draft EA states that “the underlying purpose of the proposed project is to replace the County’s original marina facilities at LPRP that were submerged and lost when construction of New Waddell Dam raised the elevation of the lake.” DEA at 3.

This is false and misleading. There is no evidence that there was actually a “marina” on Lake Pleasant prior to the expansion of the Lake. What existed was little more than a floating dock and series of buoys owned by BOR and, at best, managed by the County. Therefore, the contention that BOR is required to approve a project to “replace the County’s original marina facilities” is incorrect.

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- C. “This commitment was made in the Plan 6 EIS (Reclamation 1984), and reiterated in Reclamation’s 1997 EA.” DEA at 3.

The implication that the Plan 6 EIS establishes a need for the proposed marina is inaccurate. The 1984 EIS clearly establishes three “needs” that are the bases of the dam project – Regulatory Storage – Flood Control – Dam Safety. The proposition that increased storage would provide additional recreational benefits and opportunities was not considered a “need” but a benefit. Moreover, as discussed above, the ‘benefit’ of a marina has already been provided to the public by Pleasant Harbor Marina. What is being proposed in the current EA is an **additional** marina, not the concept of a single marina that was discussed in the EIS. Finally, the 12-acre marina mentioned in the EIS bears no relation to the current 240-acre proposal. Therefore, the

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prior NEPA documents do not establish a commitment to, or need for, the current proposal.

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- D. BOR cannot rely upon the Recreation Management Agreement (RMA) to supply a “need” for this project.

The RMA was tiered off the 1984 EIS. As discussed above, a marina even larger than that envisioned by the EIS has been constructed and operated since 1994. The RMA does not establish any purpose or need for an additional marina beyond the existing marina.

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- E. “Surveys, presentations and public meetings held as part of the MRP development process, as well as informal surveys taken prior to submittal of the current proposal, indicate a need for the marina-related facilities and services that would be provided by this project.” DEA at 3.

This conclusory sentence has no foundation and no factual support. There is no citation or documentation provided of any “survey” or “presentation”, nor any discussion of what need was indicated therein. “Informal surveys” are not sufficient to establish an actual need for the project. Moreover, if the “need” for this project is to meet the proposal in Plan 6 of the EIS, this was accomplished in 1994 with the construction of Pleasant Harbor Marina.

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On page 1 of the Draft EA, BOR states that it “was able to consider opportunities to enhance recreational development at Lake Pleasant”. Then on page 3, BOR states that the purpose of the project is “to replace the County’s original marina facilities.” As pointed out above, however, the project is not in fact a “replacement” for any prior marina, nor is it being planned based on any actual recreational needs.

- F. There is no need for this project because the carrying capacity of the Lake has already been exceeded.

As discussed above, the carrying capacity for the Lake was set at 546 boats, which has already been exceeded. How can there be a “need” for a marina when the carrying capacity for the Lake (as

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defined by BOR) has been exceeded? There may be a "desire" for a marina, but there is no need.

Utilization of the water surface by boat and jet ski traffic will continue to increase at a steady rate due to continuing residential development in the area (the north west corridor is one of the fastest growing population areas around metro Phoenix). Thus, the carrying capacity of the Lake will de facto exceed BOR's safe estimates and more intense management of launch and retrieval and law enforcement will be necessary to maintain acceptable safety standards. A new marina will only serve to compound the problem, especially as it will consume water surface in a location that will intrude upon existing boat traffic areas. It should be noted that due to the shallow sloping shoreline on the West side of Lake Pleasant, a marina cannot be safely located in a cove or bay.

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A new marina with 800 wet slips will project into the width of the lake by a minimum distance of 2,000 feet from the low pool shoreline at a point where the lake is approximately 5,000 feet wide at low pool. (NOTE – The lake is less than 7,500 feet wide at full pool). Thus the proposed new marina will intrude by close to half the width of the water surface at low pool at the mid point of the lake (north / south) where boat traffic is most intense. This constriction of traffic will pose a major public safety hazard, which will be further exacerbated by underwater hazards in the area when the water level is below full pool.

Given all of these factors – the location of the proposed new marina, its absorption of water surface, the increased speed and size of boats, and the arrival of jet ski's since the 1984 EIS – the current carrying capacity of the Lake should be less than, not greater than that originally assessed in 1984.

- G. The lack of need for this additional marina is demonstrated by the fact that other lakes in the area have only one marina.

It is unclear why there is a need for two marinas on Lake Pleasant when other lakes in the area, such as Roosevelt, Apache and Bartlett, have only one marina. In fact, Lake Roosevelt is much larger than Lake Pleasant, with over 23,000 acres of surface water at full

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pool, and is adequately served by one marina. The BOR has failed to explain why Lake Pleasant, unlike all other lakes in the area, requires an additional marina.

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III. The EA's Discussion of Alternatives Is Wholly Inadequate

The faulty assumption that BOR is already "committed" to this project leads BOR to conclude that there are no other alternatives to the current proposal and the "no action" alternative is not a real alternative. Alternatives are the "heart" of a NEPA review, because they force the agency to compare the current proposal to other, potentially more environmentally benign, alternatives. BOR's assumption that it is "committed" to approving this proposal improperly foreclosed a full consideration of alternatives.

A. The no action alternative was improperly dismissed.

The EA dismisses the no action alternative based on the fact that it has "committed" to a marina and the fact that "the County would continue to seek other proposals from potential concessionaire to construct and operate marina facilities." DEA at 7. BOR cannot avoid assessing a no action alternative based on the assumption that the project will go forward sooner or later. Maricopa County does not have a right to build on BOR land – any project requires actual approval from BOR.

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The EA provides that "no action" would mean that "no marina facilities would be developed along the western shore of Lake Pleasant, and the Plan 6 commitment to provide marina facilities to replace those lost due to construction of the New Waddell Dam would not be fulfilled." DEA at 7. This statement is false and misleading. Maricopa County did not have any marina facilities that were "lost due to construction of the New Waddell Dam". As stated in the section addressing Purpose, the only water-craft based operations at the lake were a series of buoys and a very small floating dock courtesy dock. There was no marina – no slips for lease, store, restaurant, fuel dock, boat rental operation, or dry storage.

Additionally, as noted in the section addressing the purpose and need for the project, BOR falsely relies upon "replacing" facilities instead of assessing an actual need for the new proposal. If BOR had

performed a proper needs assessment, it would have been clear that there is no need for another marina on the Lake. A marina has already been built on the Lake that meets the recreational opportunity discussed in Plan 6 of the EIS. Thus, a new marina is not needed to satisfy any unmet demand. Additionally the proposed marina envisions few amenities to supplement those that already exist. There is nothing in the history of this project or the EIS that establishes a "need" for a second marina.

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In this case, where there is no "need" for another marina, and the impacts of the proposed marina will be significant, "no action" is the only alternative that makes any sense. Therefore, the "no-action" alternative is not only viable; it should be the preferred alternative.

B. BOR is required to consider other alternatives besides what the County has proposed.

Rather than just accepting the County's proposal, BOR is required to consider a range of alternatives under NEPA. As stated above, the preferred alternative should be the no-action alternative because there is no need for another marina and because the impacts of the proposal are too great. However, other alternatives should be considered as well. BOR is required to compare the proposed project with alternatives that may have less extensive effects of cumulative impacts of traffic, water pollution, and air quality. Rather than crafting the EA to fit the demands of the concessionaire and County, NEPA requires that BOR use the EA to identify the impacts and find alternatives that reduce the direct and indirect impacts of the project on the environment. The original Plan 6 called for a 12 acre marina – at a minimum, this original proposal should be one of the alternatives considered in the EA.

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In addition, while there is no need for a marina or additional boat slips and storage on the Lake, there is a need for additional amenities such as public restrooms and a restaurant. Therefore, BOR should consider an alternative project that would provide amenities such as restrooms, a restaurant and a store **with visiting slips only**. Such a project would meet the actual needs of the Lake recreational users with much less impact on the environment.

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Also, any assessment of the financial viability of a significantly reduced project must take into account the exceptional concession rate, recently added mortgaging capabilities, the lucrative buy-out option, and the decision to not install more substantial amenities that would meet the consumer's needs, but that may not be as lucrative as the wet slips. Accordingly, there is plenty of excess in this concession that would allow BOR to curtail the actual number of boats allowed or the foot-print of the operation while maintaining its financial viability.

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IV. BOR is Improperly Segmenting this Project

The marina project being considered in this Draft EA is just one phase of a much larger project for the area, with later phases including a hotel, convenience store and boat sales facility. See e-mail string concerning a meeting between the proposed marina operator, Maricopa County officials, City of Peoria representatives and representatives of BOR, attached as Exhibit 1. No mention of the hotel and other retail facilities is included in the Draft EA, however.

NEPA is specifically designed to measure all of the environmental impacts of a proposed development and does not allow larger projects to be segmented and considered in isolation from one another. See 40 CFR § 1502.4(a) ("Proposals or parts of proposals which are related to each other closely enough to be, in effect, a single course of action shall be evaluated in a single impact statement."); 40 CFR § 1508.25(a)(1) ("connected actions", such as actions which are interdependent parts of a larger action, must be assessed concurrently in a single EA/EIS).

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Given the interdependence and physical connection of the marina and these further planned developments, all of these projects are "connected actions" that must be considered together under NEPA. BOR cannot divide up this project into individual "phases" so that each phase is found not to have a significant impact, thereby eliminating the need for an EIS, while the project as a whole, if reviewed concurrently, would have required an EIS. See *Northwest Resource Information Center v. National Marine Fisheries Service*, 56 F.3d 1060, 1068 (9th Cir. 1995). Therefore, the hotel and all other connected developments to this marina must be included in the current NEPA review, with a full discussion of their combined impacts on the Lake and the surrounding environment.

V. The EA Completely Fails to Discuss the Cumulative Impacts of the Project

The Draft EA fails to even mention the cumulative impacts of this project. A project of this size will have numerous environmental and safety impacts that, in combination with other current and proposed actions in the area, will cumulatively be significant. For instance, the additional number of boats and jet skis utilizing the Lake that this project will generate, combined with the number of boats and jet skis that presently use the water surface on a regular basis, will cause significant additional and potentially damaging incursions into the bald eagle nesting areas. The cumulative impact on boating safety will also be significant.

In addition, there will be significant cumulative impacts on water quality. Individual boats may release only small amounts of pollutants. When multiplied by thousands of boaters, however, significant water quality problems can result. The U.S. Environmental Protection Agency has identified the following potential environmental impacts from boating and marinas: high toxicity in the water; increased pollutant concentrations in aquatic organisms and sediments; increased erosion rates; increased nutrients, leading to an increase in algae and a decrease in oxygen; and high levels of pathogens. See US EPA, *Managing Nonpoint Source Pollution from Boating and Marinas*, available at: <http://www.epa.gov/owow/nps/facts/point9.htm>.

The impact of the proposal on each of these factors must be fully addressed in the direct impacts section of the EA, but they must also be studied in combination with other developments in the area under a separate analysis of cumulative impacts. This Draft EA completely fails to do so and therefore does not meet NEPA's requirements. See 40 CFR § 1508.27 (Factors that an agency must consider in determining whether an action "significantly" affects the environment include "[w]hether the action is related to other actions with individually insignificant but cumulatively significant impacts.").

VI. BOR Cannot Rely on the Plan 6 EIS and the 1997 MRP EA to Avoid Assessing the Impacts of the Current Marina Project

The EA is drafted as if it were "tiered" from, or a supplement to, the prior Plan 6 EIS and the MRP EA. However, neither of those documents assessed the environmental impact of a marina, particularly one of the

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currently proposed scope. For example, the Draft EA (at p.14) refers back to Appendix C of the EIS to support the conclusion that no alternatives need to be considered. However, Appendix C is not a full environmental assessment of the potential impacts of the marina or its alternatives, and is based on very dated information, and therefore is not an adequate basis for failing to consider alternatives in this EA.

The Plan 6 EIS addresses “conceptual plans” for recreation, but does not assess the impacts of these proposed recreation activities on the environment. Therefore, the EIS cannot be used as justification for failing to take a hard look at the current proposal. The Plan 6 EIS called for a 12 acre marina. It never envisioned 292 acres, 800 boats, dry storage, a hotel, etc. In fact, at 12 acres, it envisioned a marina less than 5 percent of the current proposal. Clearly any conclusions regarding environmental impacts that could have been made by the 1984 document cannot be applied to this project. Even if the EIS had assessed the environmental impacts of the 12 acre marina, the enormous increase in scope and size of the current project would make reliance upon that EIS untenable.

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BOR appears to recognize that the current proposal is not consistent with that described in the Plan 6 EIS: “In cases where replacement facilities are consistent with what was described in the Plan 6 EIS, construction of these facilities is either completed, underway or planned.” 1997 EA at 7. Thus, construction of the marina is not underway because BOR recognizes it was not as described in the EIS. The 1997 EA goes further to state - “These development are new and were not considered in the Plan 6 conceptual recreational development plan. . . No comparable details were identified in the EIS or supporting documents for the Plan 6 facilities.” 1997 EA at 9. Thus, by BOR’s own admission the current development was not discussed in the EIS. How then can the EIS be the basis for tiering?

Therefore, the current Draft EA, which relies heavily upon tiering from the Plan 6 EIS and 1997 EA, is fundamentally flawed. The analysis required by NEPA must be performed now, based on current information and the current scope of the project, and cannot be avoided by relying on these prior, largely irrelevant, NEPA documents.

In addition, there are additional problems with the BOR’s attempt to rely on the prior EIS and EA, as set forth below.

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- A. The 1997 EA is flawed because it is premised on minimum rather than maximum impacts.

One very troubling aspect of the 1997 EA is that the entire marina project was premised upon minimums, not maximums. How can BOR comply with the requirements of NEPA to determine any significant impact when it is approving the concept of a marina based on a minimum number of slips and parking spaces? Doing so provides a blank-check to increase the size and scope of the project without environmental review and without recourse. This is exactly what NEPA was intended to prevent.

Indeed, the County took advantage of this "blank check" by greatly expanding the scope of the marina. For example, page 10 of the 1997 EA describes "250 minimum wet storage boat slips" and "150 unit minimum dry dock boat storage". However, the current Draft EA now proposes 800 wet slips and 200 dry storage. The failure to define the scope of the project in the 1997 EA has led the project to mushroom, and the minimal discussion of the marina no longer bears any relation to the current proposal. Therefore, the BOR cannot rely on the 1997 EA to meet its requirements to assess the current project.

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- B. "As a result [of tiering], the formulation and analysis of alternatives to the proposed action, including a No Federal Action plan, is not included in this EA" 1997 EA New Waddell Dam Lake Pleasant Regional Park Mater Recreation Plan at 6-7.

This is a clear violation of NEPA and is evidently the beginning of BOR's complacent efforts to let the County build whatever it conceives, rather than objectively review the project for compliance with NEPA. It is imperative that BOR assess alternatives to the proposed marina. BOR ignored this requirement in 1997, it cannot do so now.

- C. The 1997 EA, in its attempt to address the full scope of development at Lake Pleasant, was deficient because it failed to account for and address the air quality conformity requirements that the marina and the entire project would have.

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Nowhere in the 1997 EA did it even consider the air quality impacts associated with 19,260 vehicle trips per day designated for the park facilities alone. See LPRP Master Plan, Traffic Study, Appendix IV.

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D. The lack of comments on the 1997 EA does not indicate support for, or a lack of controversy surrounding, the current project.

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BOR asserts that no one commented on the 1997 EA and seems to use this as justification for the failure to address critical flaws in the EA. Failure of the public to comment in no way justifies or cures any latent defects in the NEPA process.

VII. The Carrying Capacity of the Lake for Boating Traffic Has Already Been Exceeded

The Recreation Planning Report, Stage III Summary, which is directly related to the Plan 6 EIS, clearly states that 546 is the maximum number of boats allowed on Lake Pleasant at any one time. In fact, the report indicates that the limit of 546 boats is overly generous: "the actual capacity of Lake Pleasant could be somewhat lower than has been calculated, as adjustments for unusable boating areas of the lake have not been made (e.g. small coves too narrow to navigate and areas of extremely shallow water)." Stage III Summary at 12.

If capacity was an issue in 1984, it is even more of an issue in 2006. First, the Pleasant Harbor Marina currently takes up approximately 60-65 acres of water surface, and the proposed marina would take up an equal or greater amount. Together both marinas would remove over 120 acres of surface area, further reducing the surface area remaining for boating.

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Second, there are already more boaters on the Lake than envisioned in 1984. Pleasant Harbor Marina has over 670 wet slips and 600 dry stack storage. Moreover, there are significant numbers of daily use boaters who launch their boats on the Lake just for the day, and the number of these users continues to grow as the surrounding communities grow.

Third, every year boats get bigger and faster. New advances in engines and boat design continually allow manufacturers to increase the speed of their boats, without concurrent advances in the boats' braking or

turning capacity. The reality is boats need more room than ever to run, turn and stop. This raises serious concerns about safety, as discussed more fully below.

Fourth, the addition of jet skis to the boating experience significantly reduces the number of boats that can make use of the Lake without serious injury. Big boats have difficulty seeing small jet skis, and accidents are common. Therefore, if there has been any change in the Lake's carrying capacity, it should have decreased rather than increased. BOR cannot permit a project to move forward when its own documents conclude that the Lake is currently beyond its carrying capacity.

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Finally, even if there was additional room on the Lake for more boats, BOR has not provided any analysis demonstrating that 1,000 more boats can be safely accommodated.

Our comments on specific sections of the EA regarding carrying capacity are as follows.

A. BOR Selectively ignores the Stage III Summary.

Instead of addressing the Stage III Summary conclusion regarding the Lake's carrying capacity, the Draft EA ignores that conclusion and instead concludes the "Maximum Watercraft Capacity" for Lake Pleasant is "N/A". This is not acceptable. BOR cannot approve this marina if there is no capacity for the additional boats at the Lake. Moreover, the carrying capacity issue alone demonstrates that this project would have a significant effect on the environment, as discussed more fully below.

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B. "The County has indicated that prior to implementation of Phase IV, it intends to conduct a study to establish guidelines for managing the number of watercraft out on the water any given time, to assist in its management of recreation activities at LPRP (personal communication, Mr. Tom Timmons, MCPRD, June 21, 2006)." DEA at 29.

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This "personal communication" is completely inadequate to address the carrying capacity issue. First, the County was required to undertake a carrying capacity study by the 1997 EA BOR. 1997 EA at

48. The County never completed that study. Therefore, BOR clearly cannot rely on the personal assurances of County officials to ensure such a study will be undertaken now. Second, BOR must require the County to undertake this study before the current EA is finalized. The full impacts of this project cannot be assessed without an understanding of the true carrying capacity of the Lake. Thus, BOR must make the study an enforceable requirement, and the study must be performed now, as part of the NEPA process.

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C. The increased number of boats will lead to increased boating accidents.

The number of boating accidents on Lake Pleasant, and throughout Arizona, increases every year. *See Arizona Game & Fish, 2005 Arizona Boating Safety Report at 4.* Doubling the number of boats on the Lake will exponentially increase this, especially when BOR's own carrying capacity study proves that it is unsafe to have more boats on the Lake. This is a significant impact that requires the preparation of an EIS.

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D. The impact of jet ski usage has not been adequately considered.

Nothing in the Draft EA, or the Stage III Summary, addresses the very real issue of growth in jet ski use on the Lake. Every year more and more jet skis come to the Lake, increasing the number of boating accidents. *See 2005 Arizona Watercraft Survey, Arizona Dept. of Transportation.* The numbers of these crafts are not accounted for in any study, the ad hoc rationalization of BOR, in the Draft EA or the Stage III summary. Yet jet skis continue to be the single largest growth category of water craft recreation. The carrying capacity of the Lake would be significantly affected by the presence of jet skis, and their presence must be taken into account.

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VIII. All Permits Need to be Issued Beyond the Influence of the County

The Draft EA asserts in numerous places that the County will be the permitting agency. For all intents and purposes the County is the owner of this site. The County will receive direct benefits in terms of revenues from this project. The County will be the owner of the improvements on the site in fee when they buy the marina pursuant to the Use Management Agreement between it and the proposed operator of the new marina.

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Accordingly, the County should be precluded from issuing permits or approvals where it is not the sole source of permitting authority, but rather operates as a delegated authority. For example, the County's air quality and wastewater permitting are direct delegations from ADEQ. Accordingly, those delegating agencies should be the ones to issue all permits to the County to avoid the appearance of impropriety and self-dealing.

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IX. An Archeological Survey Must be Completed Prior to Completion of the EA

The efforts to assess the archeological impacts pursuant to this Draft EA appear to be little more than parroting back studies 10 to 25 years old. Nothing in the Draft EA discusses an actual or current survey of the site. The proposed project is substantial in size, covering 292 acres and including significant destructive activities such as the removal of 200,000 cubic yards of rock and placing it in ravines upon which to build structures. A project of this scope requires that BOR spend the time to perform a physical site survey.

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Additionally, the State Historic Preservation Office generally requires a survey if existing surveys were more than 10 years old. The surveys in this project are over 20 years old.

X. Wastewater Impacts Are Not Adequately Addressed

The Draft EA is wholly lacking in its assessment of the sewage system for the project. With a water-based recreation project that is expected to put 1,000 boats into the water, a proper and thorough understanding of wastewater needs and requirements is essential before BOR can establish clear and convincing evidence that the proposal would not result in any significant impacts. The glaring errors, miscalculations and planned violation of the law in the wastewater treatment system discussion are prime examples of the utter lack of planning that has gone into this project. BOR has failed to demonstrate that the proposal's wastewater would not result in any significant impacts to the environment.

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- A. "Phase I is anticipated to produce a maximum of approximately 16,000 gallons per day (GPD) of wastewater." DEA at 11.

There is no basis for this number. Even using the 32 gallons/per slip number proposed in the Draft EA, a flow of 16,000

gallons per day is too low. The project has 800 slips, which means there would be 25,600 gallons of flow per day.

BOR relies on a book entitled Marina and Small Craft Harbors, by Tobiasson and Kollmeyer, to establish the daily flows of a marina. DEA at 11. There are two critically flawed assumptions here that cannot be ignored. First, there is no scientific basis for the numbers used in this book. The book does not provide any information or facts to back up the conclusion that average daily flows are 32 gallons per boat slip per day. Before BOR allows a sewage system to be installed and operated on its property and within feet of swimming, boating, fishing and other water related activities, it is imperative that BOR know what the system will generate so that it can be properly sized and constructed to handle these flows. For example, the following issues must be addressed:

- What peaking factor has the developer proposed for this facility? Clearly, flows on July 4 are going to be significantly higher than those on December 2. Average daily flow means nothing if the facility is not designed and built to meet peak needs.
- What minimum factors have been considered? If the sewage flows get too low during the off-season, the aerobic system will fail and the plant will be unable to operate properly when the season begins again.
- Another problem with simply relying upon such unsupported numbers is that the numbers are qualified as “sewage generation” instead of the broader “wastewater.” If it is focused only on sewage, the number will be very misrepresented.

Second, the assumptions used in the Marinas and Small Craft Harbors book are not utilized appropriately in the draft EA. According to the book: “Above a capacity of 100 slips, marinas with toilets, lavatories and showers should have sewage generation calculated at 32 gallons per slip per day.” Marinas at 389. Clearly this is the extent to which the drafters of the EA stopped reading. As the book notes, “marinas having trailer boat facilities or rack storage

17-31

should have sewage generation calculated at the rate of 10 gallons per rake or trailer parking space per day.” That means the number used in the Draft EA should have been increased.

The facilities cited by the book as the generating points for the 32 gallons/slip are toilets, lavatories and showers. The proposed marina is for 1000 boats, a watercraft supply store that would sell convenience items and snacks, rent watercraft, and provide office space, 8 bay gas dock and a “deli/bar”. The Draft EA fails to discuss any impact in the wastewater flows for the project based upon the differences in amenities from those described in the book.

17-31

Further, if the hotel that is contemplated is constructed, even greater sewage demands will be placed on wastewater disposal facilities. Absolutely no mention is made of this impact.

B. Evapo-transpiration ponds.

The original planning documents called for the installation of evapo-transpiration ponds at the project site. Now, without discussion, the project turns to a 16,000 GPD treatment plant with reuse. Why did BOR choose to do away with the evaporation ponds? What advantages does this new system propose over the old? What are the potential problems and impacts of the new system?

17-32

C. “A monitoring system would be installed to collect accurate data to determine system requirements at build-out.” DEA at 11.

This statement flies in the face of the entire NEPA process and should be quickly dismissed by BOR as insufficient. A wastewater system must be adequately sized to meet its intended use. What happens if they build it too small – sewage releases to the Lake? If the concessionaire cannot provide accurate information on sewage flows in order to determine system requirements, then they should not be allowed to build, since they clearly have no experience with this critical element. Also, once the hotel and other contemplated retail development is in place, the initial system will clearly be inadequate.

17-33

D. "There would be a 10,000 gallon effluent holding tank." DEA at 11.

The EA does not adequately discuss the purpose of this tank. Is this holding tank for peak flows? Reclaimed water use? If it is for reuse water, it is about 6,000 to 24,000 gallons too small. If it is for peak flows, why has this number been chosen? What does it say about the planning for the project when the system needs a holding tank equal to 60% of the daily effluent production?

17-34

E. Reuse – the project proposes treating effluent on site to Class A+ reclaimed water to be reused through the site on drip-irrigation. DEA at 12.

There is no discussion of how the site will handle 16,000 to 34,000 gallons per day of drip irrigation. That is a significant amount of water. Such a system would require enormous amounts of irrigation equipment and have significant environmental impacts, especially in an arid environment. Native plants are adapted to little water and very low nutrient levels. Constant use of effluent water over an extended period would likely result in loss of many native plants. This is especially true for the much valued and rare Saguaro cactus that is a protected indigenous species. Saguaro cacti are very sensitive to above normal water supply. As the entire area is natural desert, the disposal of treated effluent is a difficult problem, and the effluent may need to be removed from the area.

17-35

If treated effluent is not removed, and cannot be reused, what will happen to it? Will it be discharge to the Lake? The Draft EA asks and answers none of these critically important questions.

F. The Draft EA states that the treatment plant would utilize "extended aeration" technology. DEA at 22.

The Draft EA only appears to look at the amount of sludge created from this system, not the actual works necessary to get to the sludge level. It is estimated that it would take over 8 acres of ponds to get this amount of wastewater properly aerated. There is absolutely no discussion in the Draft EA about where these ponds will be located and how they will be built/managed to stop 8 acres of sewage from discharging into the Lake.

17-36

G. Failure to meet nitrogen loading requirements.

The Draft EA fails to address the requirement that the wastewater system meet the nitrogen loading requirements under state rules. The aeration ponds will result in significant nitrogen loading. Nitrogen has a significant impact on the environment if not handled properly.

17-37

H. "The design would need to be approved and permitted through the Maricopa County Environmental Services Department".
DEA at 11.

This is incorrect. A 34,000 gallon/per day system would require an Aquifer Protection Permit (APP) from the Arizona Department of Environmental Quality, not Maricopa County. Also, BOR cannot postpone the quantification of any impact from the proposed project until after it is approved. NEPA requires that the agency look at the impacts of a project before the project is approved. Here, BOR is ignoring any potential permitting issues by dismissing the entire issue for resolution by the permitting authority at a later date.

17-38

I. "Because permitting and construction of this type of treatment plant requires two years to complete, a 'vault and haul' system would be utilized for the first year of operation to handle the waste." DEA at 11.

This "vault and haul" system would not be permissible. A wastewater system must be designed to handle the flows for which it is intended. The law does not allow operators to turn a wastewater system on until it is approved to accept the permitted flows. Vault and Haul is a remedial measure used as a stop-gap for operating systems with flow problems. It is not, nor was it ever designed as, a permitting tool. BOR cannot allow for the planned misuse of the permitting process.

17-39

XI. The Draft EA Does Not Adequately Address Endangered Species

This EA cannot be completed and a FONSI cannot be issued prior to the USFWS assessment regarding the bald eagle. In addition, BOR has

17-40

provided NO information to support its conclusion that the project will not likely “adversely affect” the eagles. DEA at 39. The proposed construction schedule would place the bald eagle at risk during its most critical time, December through June.

The EA does not address any of the issues related to construction activity impacting the bald eagle. It is presumed that the 200,000 cubic yards of rock to be removed from the project area (DEA at 10) will be blasted. How will this impact the eagles? How will the construction be accomplished during the breeding season without impacting the eagles?

17-40

Additionally, even with closure of the nesting site, the EA acknowledges that four percent of watercraft approaching the nesting site entered the restricted area. DEA at 37. Four percent is a significant number given that the proposed marina will double the traffic on the Lake. (4% of 1000 boats is 40 boats). The measures proposed by BOR in the Draft EA will not “ensure there would be no adverse effect to the bald eagle.” It only takes one boat crossing the restricted area to adversely affect the bald eagle. Additionally, if carrying capacity of the Lake is already absorbed by the existing marina and watercraft, the doubling of boats will certainly impact the foraging and other habits of the bald eagle.

XII. Air Quality Impacts Have Not Been Adequately Addressed

- A. The Draft EA’s conclusion that a conformity determination was not required is incorrect.

A conformity determination will be required for ozone, carbon monoxide (CO), and particulate matter (PM₁₀). In fact, a federal agency cannot license or permit any activity which does not conform to an applicable state implementation plan. Therefore, this project cannot begin construction until it conforms to the existing state implementation plan.

17-41

- B. PM₁₀

The Draft EA’s analysis of PM₁₀ emissions is flawed in two primary ways. First, the emission estimates provided are oversimplified and lack foundational support. For example, the estimate for vehicle exhaust emissions fails to account for potentially significant vehicle idling times in parking lots and boat ramps. In

addition, the Draft EA fails to provide support for the assumption that the average round trip travel distance for Lake Pleasant visitors is only ten miles. This is surely incorrect. Few visitors who will use the marina will travel less than ten miles round trip. The one-way distance from downtown Phoenix to Lake Pleasant is approximately 40 miles. Also, the use of 2002 estimates to determine watercraft emissions is inappropriate given the admission in the Draft EA that "over the past 2 years visitation has increased by almost 20,000 people, or just over three percent, each year." p30. There is no residential population for approximately 8 miles to the east and over 5 miles to the south. There is minimal population for many miles to the west and to the north. An average drive time of 10 minutes is grossly understated. Average drive times are likely to be more in the region of 30 minutes or more.

Second, the Draft EA fails to quantify emissions resulting from two significant emission sources, construction and reentrainment of PM_{10} on unpaved roads and parking lots. The Draft EA takes the position that these sources would not exceed conformity thresholds. This exhibits a fundamental misunderstanding of the conformity determination process. All emissions from the proposed project must be quantified and aggregated to determine if the project as a whole exceeds conformity determination thresholds.

Similarly, the Draft EA acknowledges that unpaved parking lots will be used, but fails to quantify these emissions. The 2002 emission inventory provides an unpaved road emission factor estimate of 573.91 grams/mile traveled. Dust from unpaved roads and parking lots is a significant source of PM_{10} that cannot be ignored. All PM_{10} emission sources must be quantified, and those estimates must be made available to the public to provide an opportunity for meaningful review and comment. All regularly used parking areas at Pleasant Harbor are paved and have been since 1994. To allow unpaved parking areas today is negligent and will create significant air pollution.

C. Ozone

Until June 2005, portions of the Phoenix metropolitan area were deemed nonattainment for the one-hour ozone NAAQS. The

17-41

one-hour nonattainment area included the southeastern portion of the lake and adjacent shoreline located in Maricopa County.

In April 2004, EPA designated portions of the Phoenix metropolitan area as nonattainment for the new, more stringent, eight-hour ozone standard. The eight-hour area is much larger than the previous one-hour area and includes the entire portion of Lake Pleasant and surrounding shorelines located in Maricopa County.

However, according to the Draft EA:

increased watercraft emissions within the ozone nonattainment area were estimated by assuming that 50 percent of the 2002 watercraft ozone precursor emissions are generated at Lake Pleasant (ADOT 2003), and conservatively assuming that one third of the additional boating activity occurs on the opposite side of the lake within the eastern portion that lies within the ozone nonattainment area. DEA at 32 (emphasis added).

17-41

This statement incorrectly refers to the old one-hour nonattainment area. This error has significant consequences; the Draft EA's emission estimates are based on this faulty assumption. It is estimated that the correct emissions would be over 200 tons/yr. Marine engines are among the highest contributors of ozone precursor emissions (*See* US EPA guidance at <http://www.epa.gov/otaq/boat-fs.htm>) and therefore must be fully and accurately assessed.

A conformity determination must be conducted when direct and indirect emissions of ozone precursors equal or exceed 100 tons per year. 40 CFR § 93.153. In this case, the emissions from watercraft alone are more than double the conformity threshold.

This is not the Draft EA's only flaw. It also improperly disregards emissions from passenger vehicles and construction traffic. Contrary to the statement on page 33 of the Draft EA, Castle Hot Springs Road is located within the eight-hour nonattainment area, and those emissions must be included in the analysis.

Finally, the ozone precursor estimates suffer from a number of the same flawed assumptions as the PM₁₀ estimates. For example, the Draft EA assumes that vehicle trips are only ten miles. This significantly underestimates the emissions impacts resulting from increased vehicular traffic. Additionally, the Draft EA fails to attempt to quantify construction-related emissions. Again, to determine whether a conformity determination is necessary, all direct and indirect emissions from the proposed project must be calculated and aggregated.

D. Carbon Monoxide

Portions of the Phoenix metropolitan area are located in a CO maintenance area. The CO maintenance area has the same boundary as the one-hour ozone boundary; it includes the southeastern portion of Lake Pleasant and adjacent shoreline.

17-41

A maintenance area is an area that was once a nonattainment area but has been re-designated by EPA because it now meets the relevant NAAQS. EPA re-designated Phoenix from nonattainment to attainment and approved the maintenance plan in 2005.

Numerous federal requirements continue to apply in maintenance areas to ensure they continue to meet the applicable NAAQS. The requirement to conduct a conformity analysis is one of these. In CO maintenance areas, a conformity determination is required if direct and indirect emissions equal or exceed 100 tpy. 40 CFR § 93.153. Emissions from increased watercraft use alone could result in direct and indirect emissions that equal or exceed 100 tpy.

E. Acute Carbon Monoxide poisoning

Carbon monoxide has another more direct public health and safety consequences at Lake Pleasant. As noted in an Arizona Republic article dated July 29, 2006, three individuals were diagnosed with carbon monoxide poisoning at Lake Pleasant that week. Therefore, in addition to violating the law, the Draft EA's failure to consider CO emissions is simply irresponsible. NEPA clearly requires BOR to address all environmental impacts including acute impacts. Therefore, the EA should directly address what BOR intends

17-42

to do to control this hazardous pollutant currently, in addition to how it intends to deal with or justify such acute poisoning issues when its proposal currently envisions doubling the number of boats on the Lake.

17-42

F. Trip Generation

The Lake Pleasant Regional Park Master Plan, upon which the 1997 EA was based, and which BOR claims the current Draft EA is tiered, states that “the number of trips generated by all the park facilities after full development is anticipated to be 19,260 per day, with 13,890 trips either entering or exiting the park, the remaining 5,370 trips made totally within the park.” LPRP Master Plan Appendix IV. Clearly, the post hoc rationalization used by the Draft EA to justify its claims of conformity, based on approximately 200 vehicles is not only wrong, it is either glaringly miscalculated or intentionally manipulated. 19,260 trips per day generated would mean that the air pollution numbers would be on the order of 100 times greater than those discussed in the Draft EA.

17-43

XIII. The EA Fails to Address the Impacts Involved with the Continually Increasing Size of the Project

The amount of acreage involved with this project keeps increasing, as demonstrated by the following references:

- March 2006 – “proposing to have a new marina developed on approximately 164 acres of land at Scorpion Bay along the western shore of LPRP in Maricopa County.” Bureau of Reclamation Memorandum From Carol Erwin, dated March 1, 2006 Re: Notice of Public Scoping for Preparation of an Environmental Assessment.
- July 2006 – “The marina is proposed to be developed on approximately 240 acres of land along the western shore of LPRP.” Bureau of Reclamation Memorandum From Carol Erwin, dated July 20, 2006 Re: Draft Environmental Assessment (EA) on the Proposed Scorpion Bay Marina and Yacht Club, Lake Pleasant Regional Park.
- Class I Survey – conducted on “approximately 292 acres for the proposed Scorpion Bay Marina and Yacht Club”

17-44

- Biological Evaluation – conducted on “approximately 292 acres of Bureau of Reclamation administered lands proposed for the development of a marina.”

BOR has attempted to point out that in the 1997 EA the marina was planned for a 400 acre site and that the new number of 160, 240 or 292 acres (whichever it actually is) is a reduction in size. This is illusory and disingenuous. When one actually looks at what was proposed for the original 400 acres, it included among other things, “2,000 feet of roads, a 5 lane boat ramp, a .25 mile length beach, 50 space recreational vehicle park, 50 space minimum campsite with restrooms, and a 100 space minimum picnic area.” 1997 EA at 13. Consequently, there is likely no reduction in the actual acreage for the marina, and more likely an actual increase in marina footprint since none of the aforementioned amenities have been proposed, yet the marina is adding 300 parking spaces and 550 additional wet slips.

17-44

Other aspects of the project continue to increase as well. The March 2006 scoping document stated that construction would occur in three phases, and that the project would include the boating supply store and office, wastewater treatment facility, two restroom boats, 230 wet slips, and parking for 260 vehicles. By contrast, the July 2006 Draft EA includes 4 phases (page 7), 248 wet slips, parking for 280 vehicles, a 5 bay gas dock and above ground storage tank area, fenced graded area of 375 watercraft and/or trailers and a public boat ramp. These are all important differences, yet there is no discussion regarding why the scope of the project changed.

XIV. Water Quality Impacts are Not Adequately Addressed

The Draft EA fails to look at water quality issues on the Lake. There are two that are readily apparent but that were overlooked in the EA – human fecal waste and general pollution from boats.

A. Human Fecal Waste

Lake Pleasant is designated one of the cleanest waters in the state allowing for: full body contact, domestic water source, fish consumption, agricultural irrigation and livestock watering. The majority of boats on the Lake do not have on-board lavatories - and many boaters use the water or shoreline to relieve themselves. The EA needs to assess the direct, indirect and cumulative impact human

17-45

fecal waste will have from a doubling of the number of boats on the Lake. Overcrowding Lake Pleasant will only exacerbate the current use by boaters of the shoreline or shallows.

The existing bathroom facilities on the Lake and the proposal to add floating restrooms will have virtually no impact on the increase in fecal matter that will be added to this Lake. Lake Powell has significant troubles with boaters using the shoreline as a bathroom, despite the existence of 8 floating restroom/pumpout/dump stations maintained there. See National Park Service website at: <http://www.nps.gov/glca/lpp.htm>. Current assessments of the Lake show that most boaters shy away from using the floating/county restroom facilities.

17-45

The fecal coliform issue has significant ramifications on the environment and health and human safety. This Lake is designated as full body contact, which means people will expose their entire body and mouths to this water. The Lake is designated as a domestic water source. Fecal coliform thrives in warm water environments like Lake Pleasant. The Lake is designated fish consumption, which means people will be eating fish who are exposed to these increased levels of fecal waste. The water from Lake Pleasant is then sent down the CAP to be delivered to farms and ranches for use in livestock and crop production.

These serious water quality issues must be studied by BOR before it can determine that the project will not have any significant impacts.

B. Pollution from Boats

The Draft EA fails to address the serious concerns regarding the cumulative impact of pollution from boats. Common types of pollution include: engine oil drips into the bilge, trash tossed or blown overboard, fuel squirts out of the fuel tank vent or overflows when topping off, and sewage. Doubling the number of boats on the Lake will have significant impacts on these sources of pollution. Because the boating and activities on the Lake are most prominent during the draw-down period, the impact of this pollution is even greater.

17-46

XV. The Environmental and Public Safety Costs of this Project Outweigh its Public Benefit

BOR is forsaking its obligations to manage these lands in the best interest of the public and instead is allowing the marina project to go forward without any concern for the other uses. This project began with the Plan 6 concept of 4 areas that would be developed for recreational purposes. That was then turned into 7 areas in the County Master Plan, all including many aspects of recreation besides boating. However, none of the non-revenue generating activities seem to have made it to the final action. Gone from the plans are the improved camping areas, group camping areas, picnic areas, group picnic areas. See 1997 EA at 13. All the public is left with is the amenities associated with a concession. If you read Plan 6 and the Recreational Summary, it is clear the drafters envisioned a complete system of services, not just the money-making marina. BOR through this process has awarded Concessionaire an incredibly valuable government contract despite the fact that there is no need for the marina and the carry capacity of the Lake does not allow additional boats. A permit to construct and operate a new marina would be in violation of BOR's stewardship obligations and therefore impermissible.

17-47

XVI. BOR Failed to Address Significant Public Comments in Scoping Letters

The City of Peoria raised concerns in its response to the scoping document that are noted on page 4 of the Draft EA as follows: "Concern was raised regarding increased visitation and the resultant strain on local resources, including potential increases in the number of calls for municipal fire and police service and associated response times. The need for development and construction of the project to comply with local ordinances was also identified." This concern was summarily ignored. Nothing in the Draft EA even attempts to address this concern voiced by the very party responsible for the fire and police services in the area.

17-48

The traffic pattern study performed for the Master Plan envisions trip generation numbers of "19,260 trips per day, with 13,890 trips either entering or exiting the park, and the remaining 5,370 trips made totally within the park." LPRP Master Plan App. IV. This is exactly what the City of Peoria Police are concerned about. Yet this EA ignores this substantial increase in vehicles and miles traveled and how this congestion will impact

public health and safety by reducing response times and straining the lines of public service.

Moreover, because BOR has failed to properly address the questions presented in the comments to the Scoping Letter submitted on behalf of the Pensus Group by Van Ness Feldman on March 24, 2006, they are attached and incorporated herein as additional comments to the Draft EA.

17-48

XVII. Other Comments

- A. "Construction of the main parking area on the south part of the site would involve excavating down about 10 to 15 feet from the hilltop, removing about 200,000 cy of rock material. This material would be used to fill ravine areas on the west portion of the site, to create the outdoor storage and drystack building areas." DEA at 17-18.

17-49

Not one word is written about the potential impacts this aspect of the project will have on the environment. It is merely mentioned as if it had no weight at all in the decision making process. BOR must consider the direct and indirect impacts of such project components.

- B. "Depending on distance and location, groundwater levels generally fluctuate in direct response –but lag in time—to changes in lake levels." DEA at 18.

As with all elements of this Draft EA, the BOR appears blinded by the end goal of giving the County the marina it wants, and unable to ask even the most basic of questions to truly assess the impact this proposed operation will have on the environment. This statement tells the reader that the wells at Lake Pleasant are pumping sub-flow, not groundwater. This is enormously important. Each time the County turns on these wells, they are quite literally stealing water from bona fide right holders.

17-50

- C. It is unclear from the Draft EA who will be the owner/operator of the drinking water system.

It is important for BOR to assess the fitness of the water provider to determine if the system will be operated in such a manner that it does not have any significant effect on the environment. There

17-51

are many drinking water systems in Arizona that operate in violation of the law. BOR should require proof of the County's fitness to operate the drinking water system and NOT rely upon "personal communications" to make these determinations as it does at page 19 of the DEA.

17-51

From: John Schell [mailto:John.Schell@peoriaaz.gov]
Sent: Fri 7/28/2006 1:52 PM
To: Jim Norton
Subject: RE: Rumor I'm hearing

Jim,

Yes, it appears your information is accurate. Per your request, I'm forwarding a recent email on the status of the marina project...John.

John Schell

Director, Intergovernmental Affairs

City of Peoria

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(Please note the change in my e-mail address)

-----Original Message-----

From: Carl Swenson
Sent: Wednesday, July 12, 2006 6:05 AM
To: Terry Ellis
Cc: Glen Van Nimwegen
Subject: FW: Meeting with Maricopa County on Marina IGA

Terry,

Glen's update is great...I would emphasize, however, that our key objective to gain the agreement with the county to use our life/safety codes was achieved. The remaining issue, as Glen points out, is how many of our more discretionary, and/or aesthetic codes will be included. There is some rational, for example, to let the county use their landscaping requirements which reflect the park use...while we may want to try to use our design standards for any future buildings. We'll provide an update as soon as we've discussed the substance of these codes with county staff. Carl

From: Glen Van Nimwegen
Sent: Tue 7/11/2006 10:32 PM
To: Terry Ellis
Cc: Carl Swenson; Steve Burg; David Nakagawara
Subject: Meeting with Maricopa County on Marina IGA

Carl asked me to give you an update of our meeting this afternoon...

The four of us met with county officials Bill Scalzo, Assistant County Manager, Joy Rich, Assistant County Manager, Tom Timmons, Contract Administrator and RJ Cardin, Assistant Director of the Parks and Recreation Department. Also present were Carol Erwin, the Phoenix Area Manager of the Bureau of Reclamation and the developer, Mike Pretasky of Skipper Marine Development.

The majority of the meeting was a presentation on the history of Lake Pleasant, the project's principals, the proposed phasing of the marina and the benefits it will provide. Some interesting insights from the presentation included:

- No public dollars will be used for project. Private investment will reach \$20 million.
- Revenue raised at the lake will go back into the operation and maintenance of the Lake.
- The area of development closely matches the Lake Pleasant Master Plan.
- They have a very short time frame for Phase 1, with a projected opening date of January, 2007.

Phase 1 of the project includes a portion of the slips, fuel distribution facility, a convenience store, parking and a dry storage lot for watercraft. Their short timeframe is due to the need to complete certain construction in October – November due to the reduced lake level during that timeframe. Future phases include a 40 foot tall building for stacked boat storage, additional slips, a hotel, convenience store and boat sales facility on Route 74. Mr. Scalzo stated that he expected we would have a different relationship between the County and City when it came time to develop the Hotel (?).

My overall impression was that this was a first class operator and I think they will do a quality project. The major point of contention came when we explained our interpretation of "Peoria Building Codes" included landscape and design standards. Joy mentioned they have agreements with Phoenix where the County reviews projects according to Phoenix's building codes, including sprinkler requirements, but her staff was unable to apply objective design standards to a development. Bill Scalzo stated he thought the landscaping would be great because that is an emphasis in his Department.

We agreed to ship Joy all of the codes in question, maybe as soon as tomorrow. We asked for a copy of their site plan with more details on the phasing which agreed to send. Carl emphasized that we are excited about the opportunity to partner with the County. I think the next steps should be:

- E-mail codes or links to our building, site, design review and landscape codes to Joy Rich;
- Have the Community Development Department complete a cursory review of the site plan when received to determine possible areas of conflicts with our codes, then
- Schedule a strategy meeting with you and the rest of the group.

Let me know if you have any questions.

From: Jim Norton [mailto:jim.norton@rrpartners.com]
Sent: Tue 7/18/2006 1:44 PM
To: John Schell
Subject: Rumor I'm hearing

John,

I was speaking with a contact the other day that is close to the county marina process and I'm hearing that the county and the contractor have been having conversations about the development which include amenities beyond what was originally discussed including a possible hotel, some kind of retail boat sales and other amenities. I was wondering if you know of conversations they have had with the city that these discussions might have taken place? I'm trying to get a handle on the total universe of amenities the county has in mind for this facility.

I appreciate any help you can give me.

Sincerely,

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