

**RESPONSE TO COMMENT LETTER NO. 17**  
**STEPTOE & JOHNSON LLP for DAVID MAULE-FFINCH & PENSUS**  
**GROUP**

GENERAL RESPONSE TO COMMENT LETTER No. 17.

Many of the comments made throughout this letter pertain to four somewhat interrelated issues: (1) Tiering; (2) Purpose and Need; (3) Alternatives Considered; and (4) Lake Carrying Capacity. We will first address these major areas in a general response, and then respond to other comments on a comment-by-comment basis.

RECLAMATION'S GENERAL RESPONSE:

Tiering. Several comments question the applicability of the “tiering” concept for the present EA. According to the Council on Environmental Quality’s (CEQ) regulations implementing the National Environmental Policy Act (NEPA) at 40 CFR § 1508.28:

Tiering is appropriate when the sequence of statement or analyses is:

- (a) From a program, plan, or policy environmental impact statement to a program, plan, or policy statement or analysis of lesser scope or to a site-specific statement or analysis.
- (b) From an environmental impact statement on a specific action at an early state (such as need and site selection) to a supplement (which is preferred) or a subsequent statement or analysis at a later stage (such as environmental mitigation). Tiering in such cases is appropriate when it helps the lead agency to focus on the issues which are ripe for decision and exclude from consideration issues already decided or not yet ripe.

Reclamation believes it properly tiered from the 1984 “Regulatory Storage Division, Central Arizona Project” EIS and 1997 “New Waddell Dam, Lake Pleasant Regional Park Master Recreation Plan” EA documents in accordance with the above referenced regulations, and that this EA provides the site-specific environmental analysis called for in those regulations. Extensive NEPA compliance activities precede this current EA, and are summarized below.

An initial EIS on the CAP was prepared in 1972, which broadly addressed all the features of the CAP and committed Reclamation to prepare more detailed EIS’ for its major components (Reclamation 1972). The 1984 EIS was tiered from the 1972 EIS, and evaluated different options for providing regulatory storage associated with the CAP. Preparation of the 1984 EIS was preceded by numerous studies, collectively referred to as the CAWCS. The CAWCS developed the alternatives that were then considered in the 1984 EIS, and many of the conclusions of the CAWCS were summarized in that EIS. A voluminous amount of reports were generated by the CAWCS, two of which were the 1983 CAWCS “Recreation Planning Report Stage III Summary” and the March 1984 “Stage III

Report Addendum Appendix C.” The latter report contained a 95-page section on recreation. Together, these reports identified several sites at Lake Pleasant that were conceptually considered suitable for recreational development. The project area being evaluated in the current EA was part of “Site 2” that was identified in these two reports, and included a marina and other facilities (Reclamation 1983, 1984). These plans were deemed conceptual in nature and future changes and revisions were anticipated. Although the plans were conceptual, we believe it is proper to utilize these earlier EIS documents for the concepts they did address. One such concept was site selection, an item specifically mentioned in the NEPA regulations. 40 CFR § 1508.28(b).

In 1997, the MRP was presented as a “refined detailed recreational development plan based upon the conceptual recreational development plan. . . described in the [1984] EIS” (Reclamation 1997). The 1997 EA built on the earlier framework and analyzed impacts from some notable modifications. One such modification was the expansion of the marina area to a 400-acre site with an expected 500-space minimum parking facility, 250 wet slips, and 150 dry dock space. The 1997 EA noted the marina would still receive separate Reclamation review and approval (Reclamation 1997). Now that a site-specific proposal has been put forward by Reclamation’s LPRP managing partner, MCPRD, it is appropriate to tier from the work completed previously and focus on the issues that still require more in-depth examination. In short, tiering has allowed the analysis to move from recreation as one of many aspects associated with dam construction in the 1984 EIS, to a park-wide recreation focus in the 1997 EA, and finally to a site-specific marina construction focus with the current EA.

Purpose and Need. The commenter questions the draft EA’s statement—that the underlying purpose of the proposed project is to replace Maricopa County’s original marina facilities at LPRP. We have reviewed the supporting documentation and conferred with MCPRD regarding its original existing facilities. We agree that to refer to them collectively as a “marina” is not accurate. We have therefore revised the EA to correct this inaccuracy.

More broadly, the commenter asserts there is no need for a marina at LPRP. As noted in the “Tiering” response above, the 1984 EIS (Appendix C) identified a marina as one of the components that should be developed at LPRP. Later, the MRP process reaffirmed the need through an extensive public process. This included an evaluation of results from a 1986 public opinion survey of park users and staff. Next, Cella Barr and Maricopa County undertook several public opinion surveys and held numerous public meetings to gather additional information on recreational activities, facilities, and operational concerns of the public. Between May 1991 and July 1994, nine newsletters were sent out to over 880 entities as part of the public involvement process. Over 30 presentations were held regarding development of the MRP during 1993 before a variety of organizations and groups (Cella Barr 1995). In addition, a series of advertised public open house style meetings were held by the MCPRD in which various resource management agencies with overlapping responsibilities in the LPRP area (including Reclamation, Bureau of Land Management, and Arizona Game and Fish Department) also participated. One end result from this public process was the inclusion of an expanded marina as a component of the MRP. The MRP included a 400-acre marina complex. Because of the dynamic nature of the MRP, the

capacities of the various facilities were articulated in terms of “minimum” capacities. However, as an indication of the size of the marina that was being considered, a March 1993 traffic study associated with the development of the MRP used an estimate of 800 “berths” to determine the number of vehicle trips that would be generated by the park (Cella Barr 1995).

Local population growth typically drives recreational boating demand and the rapid urbanization of the surrounding area to Lake Pleasant again confirms the earlier decisions to include a marina at the Park. During the years since the MRP was finalized, Maricopa County regionally, and the northern and western portions of Maricopa County specifically, have experienced continuing growth. Between 1990 and 2004, the State’s population grew 59 percent, while Maricopa County’s population grew 66 percent. During this same time frame, several cities in the northern and western portions of Maricopa County experienced growth at the same rate as, or well in excess of, the County’s overall growth:

Peoria	164 %t	Avondale	273 %
El Mirage	466 %	Buckeye	227 %
Surprise	798 %	Goodyear	520 %

(Arizona Department of Commerce 2006)

These growth trends and the urban development occurring in this part of Maricopa County reflect the demand for recreation that can be expected to occur at LPRP, especially with regard to water-related recreation. Lake Pleasant is the nearest water-based recreational development for this part of Maricopa County. Research indicates that boating markets are localized and may not extend inland (Peterson 1991). In a recent boating needs assessment prepared for the California Department of Boating and Waterways, the majority of the boat owners surveyed, who had recently visited the Sacramento-San Joaquin Delta, lived within a 75-mile radius (40 mile mean) (Dangermond Group 2003).

MCPRD, as the recreational land management agency for LPRP, has proposed to construct and operate a marina through a concession use management agreement. This proposal is consistent with the requirements of the 1990 Contract and the MRP. It addresses the long identified need that is supported by the rapid population growth in the area. The draft EA has been revised to more clearly articulate the purpose and need for this proposal.

Alternatives Including the No Action Alternative. As noted earlier, this EA is “tiered” to the 1984 CAP Regulatory Storage Division EIS and 1997 Lake Pleasant Master Recreation Plan EA, both of which contemplated the development of a marina within the LPRP as part of the recreational enhancements proposed as part of Plan 6. The specific project which is being evaluated is a proposal from a third-party concessionaire in response to a request for proposals by MCPRD. In CEQ’s *Forty Most Asked Questions*, it states:

*Reasonable alternatives include those that are **practical or feasible** from the technical or economic standpoint and using common sense*

*rather than simply **desirable** from the standpoint of the applicant.*

(Federal Register Vol. 46, 18026-18038, March 23, 1981) In later guidance, CEQ concludes it is reasonable for the Federal agency to limit the range of alternatives to those “which are considered feasible, given the applicant’s stated goals.” This guidance goes on to indicate the Federal agency should not disregard “the applicant’s purposes and needs and the common sense realities of a given situation in the development of alternatives.” (Federal Register Vol. 48, 34263, August 23, 1983)

In this situation, the EA describes the process which has led to the selection of the proposed location of the marina, and reasons why other location alternatives have been eliminated from further consideration.

With respect to other marina sizes, in considering the range of alternatives for the EA, Reclamation has taken into consideration MCPRD’s management goals for LPRP, and its determination of the economic practicalities of such a development. We note the proposed marina is a phased development, with each successive phase dependent on demand. The EA describes the environmental impacts of the maximum development, to determine the significance of those impacts, as well as a somewhat smaller-sized marina alternative.

Reclamation and MCPRD agree that a 12-acre marina, first mentioned in the 1984 Plan 6-related documents, would not be economically practical. The 1997 EA analyzed a 400-acre marina at the Scorpion Bay site. Common sense suggests we need not now analyze a myriad of alternative sites and sizes. Please see the “Tierring” section above for additional discussion.

Lake Carrying Capacity. The commenter argues both that Lake Pleasant’s carrying capacity has been exceeded and that a new evaluation of the “true carrying capacity” is needed before this marina proposal should be approved. Both arguments are based on a misunderstanding of the carrying capacity concept as envisioned by Reclamation in this situation. The comments included in this submission indicate the commenter believes the carrying capacity of Lake Pleasant is an absolute number of boats over which no other boats should be allowed to enter the water due to safety considerations.

According to Holly E. Bosley (2006), in *Techniques for Estimating Boating Carrying Capacity: A Literature Review*:

Carrying capacity determination is not a matter of computing and rigidly enforcing a single, explicit maximum value. Instead, carrying capacity includes an element of perception from recreation area users and managers, who add the human component to recreational carrying capacity. For this reason, the carrying capacity determination is never purely objective. As such, capacity is often reported in the form of a range of estimates as opposed to an optimum or maximum value. Capacity will vary from site to site in

accordance with visitor behavior and preferences, as well as management goals.

In discussing the concept of recreational carrying capacity in a study on four lakes in Kalamazoo County, Michigan, Progressive AE (2001) states:

...a recreational carrying capacity study should not be used as the sole determining factor limiting lake use or access. Rather, a recreational carrying capacity analysis should be used as a tool to evaluate the range of options that are available to help minimize multi-use conflicts, environmental concerns, and other problems associated with lake overcrowding. A recreational carrying capacity study can establish a framework for decision making and provide a basis for regulatory action.

Reclamation agrees with this commenter and others who have noted that increases in boating activity may have public safety implications which could require management changes in the future. To address these challenges, MCPRD has agreed to conduct an inventory of the conditions, resources, opportunities, and constraints that exist at Lake Pleasant using the methodology laid out in the “Water Recreation Opportunity Spectrum Users’ Guidebook,” by Haas et al. (2004). A Water Recreation Opportunity Spectrum (WROS) study can be useful in both planning and making management decisions. For example, a WROS *planning* study can be used during the creation of a lake-wide recreation plan (Haas 2004). Lake Pleasant already has such a plan (the MRP) in place and MCPRD, as the Park manager, is seeking to implement an additional aspect of that plan. While the WROS process was not directly used in the creation of the MRP, the extensive public process associated with the plan’s formation was in many ways consistent with WROS guidelines. (Please see Reclamation’s general response above under “Purpose and Need.”) WROS can also be used as a management tool and that is its proposed role here. The “boating capacity” concept is, in fact, addressed in the “WROS Management” chapter of the Guidebook. As a management tool, a WROS inventory assesses the status of a lake and can help identify triggers for management actions (Haas 2004).

The WROS approach is only one of several available tools, however, and its use is not mandatory. The MRP built upon an existing recreation planning framework from the 1984 EIS. The recreation-related CAWCS work utilized a U.S. Army Corps of Engineers methodology that resulted in an “instantaneous carrying capacity” of 546 boats, which is highlighted by the commenter (Reclamation 1983; 1984a). This original planning estimate, used for conceptual purposes and for determining benefits, is addressed in some detail below because of the confusion it has created.

Regarding the CAWCS analysis, the commenter sometimes treats “546” as though it were an absolute cap on boat numbers. It is more accurate to describe that estimate as a planning tool based on then-present boating trends. The Stage III Report Addendum, Appendix C, describes the carrying capacity concept flexibly and broadly:

The concept of carrying capacity involves any or all of four components from which specific facility standards are derived. These components are social standards, resource capacity, physical (space) capacity, and administrative factors.

(Reclamation 1984b) Not all of these factors were addressed in the 546 estimate. The broader concept was designed to be flexible as seen by the ability to emphasize “any or all” of the components. The 546 estimate was itself calculated from a formula designed to approximate the number of boats then expected on the water at any one time. (Reclamation 1984b). This “instantaneous carrying capacity” formula considered only total water acreage, the then-current percentage of use by different activity types, and assumptions about the boating area needed for those various activities. It was never intended to be as an absolute cap for either boats actively on Lake Pleasant or inactive boats along the shore as the commenter suggests. This is seen where Appendix C suggests one should manage for particular local circumstances rather than rigidly follow the estimated average (Reclamation 1984b).

The number of acres per type of watercraft activity used to estimate a “carrying capacity” varies from study to study, and may consist of a range rather than a hard and fast number. Sometimes social perception factors are used in establishing an acres or range of acres per boat coefficient to be used, as well as coefficients based upon physical safety (Louis Berger Group 2001; National Park Service 2002). Key factors in the CAWCS calculations were the assumptions regarding acreages used per boat. The formula assumed 12 acres would be used for each power or non-power boat; 20 acres per water-skier; and 7 acres per fishing boat (Reclamation 1983). The WROS Guidebook suggests a range of 1 to 10 acres per boat at “Urban” experience areas and 10 to 20 acres for “Suburban” areas, both of which may be characterized by an emphasis on socialization and active uses like water skiing (Haas 2004). (Note that a single lake may contain multiple types of WROS areas.) The Forest Service-managed lakes in Maricopa County have lake-wide averages of 3 to 10 acres per boat (Forest Service 1988). Using these per acre assumptions would have produced a very different end result in 1984. The more important point is that the 1984 planners were not seeking to create a rigid cap, but a planning and management tool. Further, the commenter often mixes the “instantaneous” estimate with daily totals and even inactive boat storage capacity.

The basis for our boating analysis is explained in detail in Appendix C of this EA. There we clearly state the estimated impact of the proposed action would be an additional 236 watercraft entering the lake daily, or 197 under Alternative A. We will certainly consider the earlier estimate as we assess the impacts and determine if more study is needed, but Reclamation does not view the 1984 estimate as a hard and fast number that must rigidly dictate management until a new study is conducted. The commenter suggests that Pleasant Harbor Marina should continue to operate, and even expand, while the 1984 estimate is exceeded but the current proposal should not proceed because of capacity concerns. Reclamation expects a long term increase in boating use due to the rapidly expanding local population. This long term demand must be managed effectively, but such management studies are not necessarily a precursor to the implementation of an item identified MRP. In

our decision-making process, however, we will consider whether the expected impacts of the marina warrant more study at this time, or if a management study would be unaffected by development and/or more effective after development has begun.

#### RECLAMATION'S RESPONSES TO INDIVIDUAL COMMENTS.

- 17-1. Information obtained regarding the number of wet slips, dry storage and dry stack storage spaces available at Pleasant Harbor Marina, as well as its plans for increasing its facilities, came from the Pleasant Harbor Marina's "Lake Pleasant Magazine" and the MCPRD. Table 3 of the October 2006 revised draft EA reflects this new information. Please see response to Comment 17-6 regarding the last sentence of this comment concerning Pleasant Harbor Marina being "permitted" to add additional facilities.
- 17-2. The commenter misstates the role of an EA. An EA is "a concise public document. . . that serves to. . . [b]riefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact." 40 CFR § 1508.9. Please also see Reclamation's general response for "Lake Carrying Capacity" above. Regarding the comment that the 1984 "carrying capacity" will be exceeded by 1,200 boats, it appears the commenter included moored inactive boats. We disagree with that approach. Our basis for the estimates used are provided in Appendix C to the EA.
- 17-3. The comment does not identify the "numerous other impacts" that were thought to likely rise to the level of significance; therefore, they are not addressed herein. Your support for the No Action alternative is noted.
- 17-4. Please see Reclamation's general response for "Purpose and Need" above.
- 17-5. Please see Reclamation's general response for "Alternatives Including the No Action Alternative" above. Reclamation will consider all alternatives, environmental effects, and comments before reaching a decision.
- 17-6. This comment is misleading. Reclamation did not "approve" the marina operated by Pensus to meet the recreational opportunity discussed in Plan 6 and the 1984 EIS. Nor has Reclamation "permitted" Pleasant Harbor Marina to add another 160 wet slips or 400 additional dry stack storage spaces. As explained in section 1.2 of the EA, as part of a 1988 agreement under which MWD ceded ownership of Waddell Dam to Reclamation, MWD retained ownership of 225 acres located at the eastern abutment of New Waddell Dam. Reclamation's compliance with NEPA for what is now Pleasant Harbor Marina consisted of categorical exclusions that focused on the site-specific physical impacts related to land-disturbing activities associated with the construction of the boat ramps and floating boat-dock facility. At that time, neither did Reclamation perform a "needs" analysis, carrying capacity study, or evaluation regarding impacts from boaters on the environment, nor were we provided such

information for review prior to the marina's construction. Plans submitted as part of that analysis showed a marina with less than 300 wet slips. Reclamation has not performed any NEPA analysis associated with Pleasant Harbor Marina since 1993.

As stated in the EA, MCPRD has the responsibility for determining how best to serve the interests of the recreating public and managing LPRP. In a recent letter in Pleasant Harbor Marina's "Lake Pleasant Magazine," we note the Pleasant Harbor Marina owner indicated there were very few vacancies and that additional slips would be added in 2007. It would appear Pleasant Harbor Marina also believes there is a demand for additional marina slips at Lake Pleasant.

- 17-7. Please see Reclamation's general response to Comment Letter 17 with regard to "Tiering." Reclamation believes this EA examines the direct and indirect impacts of the project on the surrounding environment, including cumulative impacts.
- 17-8. We agree the County's then-existing facilities were modest in comparison to the marina proposal currently being proposed. Section 1.3 of the EA has been revised in this regard. Please also see Reclamation's general response to Comment Letter 17 with regard to "Purpose and Need."
- 17-9. The Record of Decision for the Plan 6 EIS states, with regard to the New Waddell Dam feature, "The plan would consist of constructing New Waddell Dam for regulatory storage, flood control, and recreation."(Reclamation 1984c). In our judgment, the identified need for a marina along the western shore of LPRP is not directly met by the availability of a marina within MWD's property on the east side of the Lake. Please also see Reclamation's general responses under "Tiering" and "Purpose and Need" above.
- 17-10. A marina has consistently been envisioned as part of the recreational developments to be provided by the LPRP operator. Please also see Reclamation's general response under "Purpose and Need," above.
- 17-11. Please see Reclamation's general response to under "Purpose and Need" above.
- 17-12. Please see Reclamation's general response above under "Lake Carrying Capacity."

As noted in Appendix B to this EA, previous studies and the project proponent believe the proposed location is ideally suited for a marina (Reclamation 1983, 1984b; Cella Barr 1995. As can be seen in the proposed marina's Clean Water Act 404 permit application public notice, the marina's location is in an area where land surface drops about 60 feet into the Lake within a distance of about 150 feet in the vicinity of the proposed marina tram. About 93 acres of the project area fall below elevation 1,702 feet; the area within the lake that would be taken up by the marina facilities would be about 33 acres. The proposed marina has been located just north and west of the LPRP Operations Center, in an area that is away from most boat traffic. Although the marina would extend 1,200 feet into the lake from land year

round, it would not extend east beyond the point of the Operations Center peninsula. This is because the marina would fluctuate vertically rather than horizontally as the lake level fluctuates. Its location adjacent to the LPRP Operations Center is also advantageous for safety reasons because there is a heliport at the Operations Center.

- 17-13. We do not believe because other lakes in the area have only one marina that this demonstrates there is no need for Lake Pleasant to have more than one marina. Each lake has its own opportunities and constraints. Apache and Bartlett reservoirs have significantly less water surface area than Lake Pleasant. Roosevelt Lake does not serve a neighboring major metropolitan area, and the demand for marina facilities is not as great as in an area that is experiencing rapid urbanization. Those in the Phoenix area who value the type of rural to semi-private experience Roosevelt Lake provides may travel the 75 miles from Phoenix.
- 17-14. The EA indicates that under the No Action alternative, the current marina proposal would not be approved, and it would not be constructed. Although we assume the County would continue to pursue issuing other requests for proposals, what we describe in Chapter 3 as occurring under the No Action alternative is a future without a MCPRD marina concession. We have revised the description of the No Action alternative in Chapter 2 to clarify this.
- 17-15. Please see Reclamation's general response above for "Alternatives Including the No Action Alternative."
- 17-16. Please see Reclamation's general response above for "Alternatives Including the No Action Alternative." We did not include an alternative that provided amenities with only visiting slips, because this option would not be consistent with the MRP and it did not appear to be practical, given MCPRD's goals for the proposed project.
- 17-17. The EA addresses the significance of environmental impacts from the various alternatives, but detailed financial analyses of "mortgaging capabilities" and other aspects in the UMA are beyond the normal scope of an EA.
- 17-18. Section 3.3.2.2 of the EA correctly indicates that no other recreational developments are being considered in the immediate future. The EA correctly notes the MRP includes two other potential concession facilities: a convenience center and lodging facilities. The EA indicates consideration is being given to locating the convenience center at the intersection of 87<sup>th</sup> Avenue and State Route 74. It is our understanding the boat sales facility identified in this comment could be associated with the convenience center. The October 2006 revised draft EA reflects this. While informal discussions between County and Reclamation staff have occurred intermittently over the past several years regarding this project, meaningful actions have not been taken regarding its implementation, which would involve time-consuming realty negotiations with several other landowners. Consideration of impacts associated with the convenience center/boat sales facility is not included in the EA because there is insufficient information about the potential project to

provide any meaningful discussion in the EA. Similarly, no information is known about any proposed lodging facilities. Although the 1990 Contract and MRP both identify possible “lodging facilities” at LPRP, as noted in the EA, MCPRD has no plans to implement this portion of the MRP in the near future.

As correctly stated in the EA, additional Federal actions and approvals would be needed prior to initiation of either the lodging facilities or convenience center, including compliance with NEPA. Without additional information regarding either development or their timing, there is nothing more that can be said of the combined impacts on the lake and surrounding environment other than what is already included in the EA.

- 17-19. The October 2006 revised draft EA included an expanded discussion of cumulative impacts, where appropriate. In response to this and Comment 1-19, the draft EA was revised to include additional information regarding water quality.

The concessionaire would be required to obtain all the necessary reviews and permits prior to breaking ground. These reviews and permits address water quality issues raised in the EPA document. While the concessionaire would have no control over what boaters do out in the lake, all concession-run activities such as maintenance and repair activities, operation of boat pump-out stations, fueling operations, etc., would comply with all applicable regulations and follow generally accepted best management practices to avoid runoff into the lake.

The Clean Marina program is a State program available in several States that is partially funded through grant monies from the National Oceanic and Atmospheric Administration. The program’s primary goal is to promote environmental stewardship by encouraging marinas and boaters to adopt a series of best management practices to keep the waters of the State clean. Although the State of Arizona does not yet have a “Clean Marina” certification program, the AGFD recently submitted a budget packet that includes proposed funding for a “Clean Marina” program. According to AGFD, if it is approved, funding could become available beginning in July 2007 (Mr. Ron Christofferson, personal communication, September 11, 2006). Both AGFD and the concessionaire have indicated their desire to work together to obtain certification for the proposed marina. The proposed concessionaire has previously received this designation at other marinas it operates.

The effects of the anticipated increase in watercraft on the Lake and potential violations of the bald eagle closure are addressed in the final EA in sections 3.8.2.2 and 3.8.2.4 and Appendix G. Cumulative impacts on boating safety are addressed in section 3.5.2.4 of the revised draft and final EA.

- 17-20. Please see Reclamation’s general response above under “Tiering.” The purpose of this EA is to provide a full assessment of the potential impacts of the marina. The Plan 6 EIS and 1997 EA were unable to provide a full site-specific assessment of the potential impacts of the proposed marina because no specific proposal for a marina

existed then. We believe this EA provides the site-specific analysis required by NEPA, based upon current information and the current scope of the project.

- 17-21. Please see Reclamation's general response above under "Tiering." Reclamation is not relying on the 1997 EA to fully assess this proposal, but neither will Reclamation ignore or unnecessarily duplicate information from that review.
- 17-22. The 1997 EA was unable to address air quality conformity requirements because in 1997 there was no specific marina proposal to evaluate, nor was the timing of marina construction identified. Conformity determinations for the proposed project are summarized in section 3.6.2.2, and the calculations provided in Appendix D, of the final EA.
- 17-23. Your comment is noted.
- 17-24. Please see Reclamation's general response above under "Lake Carrying Capacity." We believe conducting a WROS study at Lake Pleasant would establish a numeric range for the purpose of identifying a trigger for actions and resources. Once this numeric range is reached, it would trigger the implementation of a suite of management responses.<sup>2</sup>

We believe MCPRD's commitment, to undertake a WROS study within a year of the marina's commencement of operation, would result in establishing that numeric range and developing a comprehensive suite of management responses. When MCPRD determines it is appropriate, these would be implemented to provide for a safe and enjoyable experience for the water users, while protecting sensitive natural resources.

- 17-25. Please see Reclamation's general responses above under "Tiering" and "Lake Carrying Capacity." Regarding Table 3 specifically, the column "TNF Maximum Watercraft Capacity" refers to guidelines established by the Forest Service for use at the reservoirs within the Tonto National Forest. The "N/A" notation for Lake Pleasant is appropriate.
- 17-26. Please see Reclamation's general response above under "Lake Carrying Capacity." As indicated in the EA, Reclamation and Maricopa County would enter into a letter agreement to ensure this study and subsequent management strategies are developed and implemented. According to MCPRD, funding for the study has been incorporated into its FY08 budget request.
- 17-27. We cannot find a reference to boating accidents on Lake Pleasant and throughout Arizona increasing every year on page 4 of the "2005 Arizona Boating Safety Report," nor do the data support this statement. The 2003, 2004, and 2005 Arizona

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<sup>2</sup> These concepts of using an established capacity for "Limiting public use" and "Trigger for actions and resources" are taken from excerpts from Dr. Glenn Haas' *Visitor Capacity on Public Lands and Waters: Making Better Decisions* (2002).

Boating Safety Reports indicate total reported accidents in Arizona for those years were 289, 254, and 266, respectively, and the 2003 report indicates the total number of reported accidents in 2002 was 330. Total fatalities in Arizona for 2002, 2003, 2004, and 2005 were 7, 7, 11, and 5. Table 9 of the revised draft EA provides information from these same 2003, 2004, and 2005 Arizona Boating Safety Reports for the five reservoirs located in Maricopa County that have marinas, including Lake Pleasant. These numbers also do not indicate that accidents are increasing every year. Please also see response to Comment 4-1, and Reclamation's general responses above regarding "Lake Carrying Capacity."

- 17-28. We agree that any management study should take into account the presence of jet skis. Typical size, type, and speed of watercraft using a water body are all factors taken into consideration when making management capacities decisions utilizing the WROS methodology. These will be included in the study to be performed by the County.
- 17-29. Reclamation has no authority to require the State to revoke delegations of authority made to the County government. We believe there is sufficient autonomy within each of the various County departments to ensure all requirements are being rigorously enforced. According to MCPRD, a formal Intergovernmental Agreement (IGA) was fully executed between the City of Peoria and Maricopa County on December 20, 2006. This IGA formalized areas such as permitting, public safety and emergency response, to ensure all requirements of both the County and Peoria are being rigorously enforced.
- 17-30. As explained in the EA, the entire LPRP has been intensively surveyed (Class III) to fulfill Reclamation's Section 110 requirements under the National Historic Preservation Act (NHPA). This effort, like all Reclamation activities associated with the NHPA, was conducted in consultation with the State Historic Preservation Office (SHPO). Reclamation consulted with the SHPO regarding the proposed project and received concurrence that the project would not affect any historic properties (see Appendix E of the EA).
- 17-31. As correctly pointed out at the beginning of the comment, the 16,000 gallons per day (gpd) is associated with Phase I, which would have 248 slips, not the 800 slips mentioned later in the comment. The EA indicates the wastewater treatment plant capacity would be increased to 34,000 gpd at build-out, which is more than the 25,600-gpd capacity the comment indicates would be needed, based upon an assumption of 32 gpd per slip. The comment identifies many issues that must be addressed in designing a wastewater treatment plant. These patterns of use, that are needed to determine system requirements, are not yet known. That is why, as pointed out in the EA, a monitoring system would be installed initially to collect accurate data to establish these system requirements for the design of the permanent wastewater treatment plant. The system design would need to be approved and permitted through the Maricopa County Environmental Services Department; we are confident that Department will ensure the system is adequately designed prior to it

being permitted for construction. Finally, while lodging facilities are mentioned in the MRP, we are aware of no plans for hotel construction in the foreseeable future.

- 17-32. We could find no reference to evapo-transpiration ponds in the Plan 6 planning documents. In the MRP there was mention of utilizing evapo-transpiration ponds associated with septic systems at remote facilities; MCPRD has constructed and operates evapo-transpiration ponds as part of its Park facilities. The MRP identifies a wastewater treatment plant as being one of the facilities to be included at the marina. Evapo-transpiration beds are not a feasible method to dispose of 16,000 gpd of treated effluent due to the large area of flat ground that would be required. Evaporation ponds are not a viable option either, for the same reason as the evapo-transpiration beds; they are also unsafe as well as being unsightly in areas where there are large numbers of people (especially children) nearby.
- 17-33. Please see response to Comment 17-31.
- 17-34. The 10,000-gallon effluent holding tank is an added safety precaution; the EA has been revised to note this. As mentioned above, the wastewater system would be designed to meet Maricopa County Environmental Services and Arizona Department of Environmental Quality requirements, and must be permitted before construction can commence.
- 17-35. According to MCPRD and its concessionaire, a licensed landscape architect would be hired to design and oversee the construction of the irrigation system. The system would be designed to provide the proper amount of water to each plant. The 10,000 gallon effluent holding tank would be available to store unused excess effluent during times when irrigating is not feasible, such as during rain events.
- 17-36. According to the MCPRD and its concessionaire, aeration ponds are not required. We are confident that the wastewater system approved and permitted by Maricopa County Environmental Services Department would ensure the wastewater is properly aerated and would not result in discharges of effluent to the lake or nearby washes.
- 17-37. No effluent would be discharged to waters of the U.S., and no sludge would be discharged to the land surface; therefore, there would be no concerns regarding nitrogen loading.
- 17-38. The concessionaire has had discussions with the Arizona Department of Environmental Quality (ADEQ) regarding Aquifer Protection Permit requirements, and has indicated after receipt of approval of a MAG Clean Water Act section 208 permit, an application for the Aquifer Protection Permit would be submitted to ADEQ. The October 2006 revised draft EA indicates this.

We believe it is reasonable to assume that facilities and/or actions will receive the required appropriate level of review prior to issuance of a permit or approval by the applicable State, County, or local jurisdiction. Where the purpose of the review,

approval and/or permitting process is to ensure some aspect of the environment is protected from harm or degradation, we believe it is not necessary to discuss the impacts that might occur should the approval or permit not be issued. This is because if the approval or permit is not obtained, the project would not be allowed to be implemented.

- 17-39. Because the wastewater treatment plant requires a minimum of 15% of its capacity to operate and the volume of wastewater anticipated to be generated during Phase I would be less than that amount, a vault and haul system would be used for the first year. It is anticipated that insufficient flow would be generated to operate the wastewater treatment plant until the second boating season. The Maricopa County ESD would be the appropriate agency to determine whether or not it approves of this approach.
- 17-40. Consultation with the FWS was underway at the time the July 2006 draft EA was issued for public review and comment. As indicated in the EA, Reclamation determined the proposed project may affect but is not likely to adversely affect the bald eagle. Measures were incorporated into the project that would ensure there would be no adverse effect to the bald eagle with implementation of the proposed project. That consultation, and our informal re-consultation (undertaken due to the revised estimated numbers of watercraft currently using the Lake and expected to use the Lake in the future with implementation of the proposed project), have been completed. The concerns raised in this comment were taken into consideration in our determination. FWS' memorandum concurring with our determination is provided in Appendix G.
- 17-41. The commenter correctly pointed out a conformity determination for CO should have been calculated, and that the conformity determination for ozone should have been based on the 8-hour standard. In our attempt to respond to both this and Comment I-7, as well as resolve the flaws identified in these comments, Reclamation sought guidance and recommendations from Maricopa County Air Quality Division regarding the most appropriate method for calculating potential emissions from the proposed project. (The calculation of potential emissions for PM<sub>10</sub>, ozone precursors, and CO are needed to determine whether or not a conformity determination would be needed for any of these three pollutants of concern.) Our response to Comment I-7 explains how and why the methodology presented in both draft versions of the EA was revised.
- 17-42. Please see response to Comment 2-6.
- 17-43. The 19,260 trips per day estimate generated by the traffic study referenced in this comment represented all traffic into and out of the LPRP associated with total build-out of the MRP. The estimated vehicular travel used in the conformity analysis is strictly related to the traffic anticipated to be generated by the presence of the proposed marina, since the focus of the conformity determination is the increase associated with the proposed project.

17-44. Estimates of the project area and description of the proposed project provided in the scoping memorandum were based upon the best available information at the time. These estimates and project description were updated as actual designs for the proposed facilities have become more refined, and the information in the draft EA reflected these more precise figures and description. The October 2006 revised draft EA was further refined to more specifically identify the actual acreages that would be impacted by grading and construction activities. There was no measurable change to the description of impacts included in the July 2006 draft EA resulting from this refinement, with the exception of a reduction in the number of acres of native vegetation that would be permanently disturbed. It should be noted the area for which a Class I survey is conducted is typically larger than the actual project area, to ensure consideration of the entire “area of potential effect.” (Mr. Jon Czaplicki, personal communication, November 16, 2006.)

17-45. As noted in the revised draft EA, CAWCD routinely tests for cryptosporidium and giardia in water samples from Lake Pleasant, neither of which has been detected. Sources of these contaminants include human and animal fecal waste.

The National Park Service website referenced in this comment indicates that monitoring the water and informing the public of the consequences of improperly disposing of waste help to greatly reduce the occurrence of high levels of fecal coliform. The proposed marina would provide such information, restroom facilities, trash receptacles and boat pump out service to help avoid this situation.

17-46. The October 2006 revised draft EA included an expanded discussion of existing water quality and anticipated impacts associated with implementation of the proposed project. Please note as a result of correcting the current and anticipated future number of watercraft on Lake Pleasant, the anticipated increase in annual average daily watercraft use would be 37 percent, not the 68 percent increase identified in the initial July 2006 draft EA.

17-47. Many of the recreational developments identified in the MRP have been constructed, including but not limited to the Visitors’ Center, Desert Tortoise picnic area and campground, Roadrunner picnic area and campground, Cottonwood and Sunset Ridge picnic areas, a group campground, the public boat ramps, and most of the infrastructure (utilities and water supply system). Please also see Reclamation’s general response above.

As stated before, Reclamation believes with the rapid urbanization of northern Maricopa County, the increase in watercraft use at Lake Pleasant is inevitable, although it will likely occur sooner under the proposed project. Management of watercraft use at Lake Pleasant is also inevitable; how and when these more intensive management strategies are implemented will be MCPRD’s decision. We believe this increased pressure on the Lake can be better managed with the proposed action. The concession agreement would provide funding to the County for

operation and maintenance activities that would improve the management of the LPRP now and into the future. The concessionaire has experience operating and managing 15 marinas across the country and could share its expertise with MCPRD in developing appropriate and effective management guidelines for the inevitable increase in boater use at Lake Pleasant.

17-48. As mentioned earlier above, a formal IGA was fully executed between the City of Peoria and Maricopa County on December 20, 2006. This IGA formally addressed areas of concern such as permitting, public safety and emergency response.

17-49. Impacts from excavation and placement of rockfill material are described in the appropriate resource sections (see sections 3.2.2.2, 3.3.2.2, and 3.4.2.2).

17-50. The October 2006 revised draft EA clarifies that surface water rights are not being diverted and pumped as groundwater. See also response to Comment I-10.

17-51. As stated in the EA, potable water would be delivered to the marina from MCPRD's existing water system. MCPRD would continue to be the owner/operator of the drinking water supply system. Pursuant to Arizona law and regulations, ADEQ finds that MCPRD has complied with the requirements for operator certification in the State of Arizona, and issued a Certificate of Registration as a Grade 2 Water Treatment Plant Operator. This Certificate is valid until December 31, 2008; application may be made to renew this certification prior to its expiration.

Per Certified Letter CTS#134749 dated August 1, 2006, from the ADEQ to MCPRD, regarding Operation and Maintenance Inspection Results for the Maricopa County Parks and Recreation – Lake Pleasant, Public Water System 07-140 ICE Database Inspection Identification Number 88776, no deficiencies were observed. This inspection summary was the result of an inspection at the referenced public water system on June 23, 2006, in accordance with Arizona Revised Statutes §41-1009 and Arizona Administrative Code R18-4-122. Based on the inspection, ADEQ determined the operation and maintenance of the referenced water system is in compliance with respect to ADEQ Safe Drinking Water Rules.