

COMMENT LETTER

RESPONSES

DOI has Failed to Make the DEIS a "Clear and Concise Statement" that is "Understandable" to the Public, in Violation of NEPA and Executive Order 12898.

As stated in the NEPA regulations of the Council on Environmental Quality ("CEQ"), "NEPA procedures must ensure that environmental information is available to public officials and citizens before decisions are made and before actions are taken." See 40 C.F.R. § 1500.1(b). To "make the NEPA process more useful to decisionmakers and the public," CEQ regulations specify that "Environmental impact statements shall be concise, clear, and to the point, and shall be supported by evidence that agencies have made the necessary environmental analyses." See *id.* §§ 1500.2(b) and 1502.1. CEQ regulations further require that "[e]nvironmental impact statements shall be written in plain language and may use appropriate graphics so that decisionmakers and the public can readily understand them." See *id.* § 1502.8.

Similarly, Executive Order 12898 requires that "[e]ach Federal agency shall work to ensure that public documents . . . relating to human health or the environment are concise, understandable, and readily accessible to the public." Executive Order 12898, § 5-5(c), 59 Fed. Reg. 7629 (emphasis added). As explained in President Clinton's Memorandum on Environmental Justice accompanying Executive Order 12898, one of the purposes of that order is "to provide minority communities and low-income communities access to public information on, and an opportunity for public participation in, matters relating to human health or the environment." Memorandum on Environmental Justice, February 11, 1994, Pub. Papers of the President, 1994 Book I at 241.

The DEIS for the proposed interim surplus criteria fails to meet these standards for plain language, understandability, and low-income and minority community access. The hydrology modeling discussion, in particular, is so technical as to be incomprehensible to anyone lacking advanced education in hydrology. The graphs used to illustrate the text only make the concepts more difficult to understand. Yet understanding the hydrology modeling discussion is essential to understanding the environmental impacts of the proposed action because virtually all of the impact analysis is based on the hydrology model output. This defect in the DEIS has hindered the Hualapai Tribe's ability to understand, review and comment on the DEIS.

For example, the Tribe has concerns about the impacts of Lake Mead water elevations on the water quality, aquatic resources, cultural resources and shorelines and shoreline vegetation, as well as the potential for further inundation of the Tribe's lands. However, the Tribe cannot independently assess these impacts and develop comments on them because the hydrology modeling discussion is so incomprehensible.

Accordingly, the DEIS should be rewritten in plain language and recirculated for public comment.

8: The DEIS and FEIS are technical documents and as such, contain substantial technical information. Reclamation has made every effort possible to provide extensive, understandable explanations of the technical analysis in the DEIS and FEIS. Further, during the public comment period, Reclamation conducted technical meetings and public hearings to receive questions and provide explanation on the technical aspects of the studies conducted and information presented in the DEIS. The dates and times of these meetings were published in letters mailed to interested parties, local newspapers and in the Federal Register. Furthermore, Reclamation also accommodated various agencies and other entities by meeting with them, at their request, to provide explanation on the technical aspects of the studies conducted and information presented in the DEIS. As such, Reclamation is of the opinion that it has made every effort possible to meet or exceed the standards for plain language, understandability, and low-income and minority community access. Chapter 5 of the FEIS entitled "Consultation and Coordination" includes Reclamation's public involvement process and coordination. See also response to Comment 49-7.

Conclusion and Request for Compliance, Consultation, and Quantification of the Hualapai Tribe's Colorado River Water Rights.

For the reasons discussed above, DOI is in violation of its trust duty to the Hualapai Tribe, its NEPA obligation to disclose the proposed action's significant impacts on the Hualapai Tribe and its trust resources, its NHPA §§ 106 and 110 duties with regard to Hualapai TCPs, its obligations under Executive Orders 12898, 13007, and 13084, and its associated consultation and mitigation duties. To bring DOI into compliance with these duties, the Hualapai Tribe urges DOI to:

1. Immediately commence quantification of our Colorado River water rights and complete quantification early in the implementation of the interim surplus criteria and prior to the first five year review of the interim surplus criteria;
2. Revise the DEIS to include analysis of the impacts on the Hualapai Tribe's water rights;
3. Revise the DEIS to include analysis of the socioeconomic impacts on the Hualapai Tribe;
4. Comply with the NHPA § 106 process for taking into account the proposed action's impacts on cultural resources of concern to the Hualapai Tribe;
5. Protect the integrity of and access to Hualapai sacred sites on federal lands;
6. Mitigate significant Hualapai socioeconomic, environmental justice and cultural resource impacts;
7. Rewrite the DEIS in plain language;
8. Recirculate the DEIS for public comment after making the revisions requested above; and
9. Complete all of the foregoing through government-to-government consultation with the Hualapai Tribe.

So that we may expeditiously begin the required consultation, we urge DOI to contact immediately Hualapai Chairperson Louise Benson, Director of Natural Resources Clay Bravo, and Tribal Historic Preservation Officer Monza Honga to schedule a meeting in September 2000 with Deputy Secretary Hayes and Ms. Debbie Saint of Reclamation's Lower Colorado Regional Office.

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The Hualapai Tribe is a sovereign nation with a rich and diverse culture. The tribe's history is a testament to the resilience and strength of its people. The tribe's land is a source of pride and a source of life. The tribe's people are a source of strength and a source of life.

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HUALAPAI NATION OFFICE OF THE CHAIRMAN

Louise Benson
Chairman

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Aaron Mapatis
Vice Chairman

The Honorable Bruce Babbitt
United States Department of the Interior
Office of the Secretary
1849 C. St. N.W.
Washington, D.C. 20240

December 27, 1999

Mr. Secretary:

At the Colorado River Water User's Association Meeting in Las Vegas, Nevada on December 17th, you addressed the audience stating there are two priorities in the next millennium: the Environment and Indians. You also stated that the Federal Government should actively engage Indians in discussions regarding Colorado River Water Issues.

In light of your speech, the Hualapai Tribe respectfully requests to have a meeting with yourself, Assistant Secretary, Mr. Kevin Gover, and Department of Interior Solicitor, Mr. John Leshy, to discuss the Colorado River issues of our Tribe.

The Tribe remembers the promise you made in 1994, during the California Condor release at Vermillion Cliffs, to visit the Reservation. We will be contacting your office after the New Year to set a meeting date. If there are any questions, please contact myself or Clay Bravo, Director of Natural Resources at 520-769-2255.

Sincerely,
HUALAPAI TRIBAL COUNCIL

Louise Benson

Louise Benson,
Chairperson

This document is an attachment of the Hualapai Nation's September 8, 2000 comment letter. All relevant comments are addressed above in response to the September 8, 2000 letter.