

## COMMENT LETTER

## RESPONSES

3 the decline of Lake Mead surface water elevations and the probability of more frequent and higher magnitude water shortages to other users of Lower Colorado River water. These effects would contribute to incremental adverse impacts to water supply availability, water quality, hydropower generation, and recreational facilities. Adequate water supply for the Central Arizona Project (CAP) could be significantly reduced since it has the lowest priority water rights. Thus, the CAP would be the first to experience shortages and could be reduced to zero allocation prior to shortages for other higher priority users. In addition, the probable release of surplus and excess flows to Mexico and the Colorado River delta would be significantly reduced to near zero, especially during the 15 year interim period. Thus, the proposed criteria could impact a wide range of water users, and because of that, we are concerned that there is little evaluation of indirect impacts and of mitigation measures for direct, indirect, and cumulative effects.

4 While the DEIS provides a good evaluation of potential direct impacts, the scope of the analysis is limited to the 100-year flood plain and reservoir maximum water surface elevations (pg. 3.2-1). Therefore, indirect impacts caused by use and storage of the surplus water are not addressed. This is of concern because proposed use of surplus water includes groundwater banking in basins that are extremely controversial and/or have not been adjudicated and which do not provide protection for existing users (e.g., Desert/Coachella Basin, Cadiz). In addition, a number of Indian Tribes and their Indian trust assets could be adversely affected by proposed storage actions.

5 We are also concerned by the minimal consideration, description or evaluation of mitigation for identified potential impacts. Although the direct impacts may be an incremental increase above baseline, we strongly believe Reclamation has an obligation to describe and consider mitigation for these impacts. Mitigation for potential increased CAP shortages is of concern, especially for Indian Tribes who have unquantified or outstanding water rights (e.g., Hualapai Tribe) or are dependent on CAP water. The FEIS should describe and consider mitigation for potential impacts on all potentially affected Indian Tribes (CAP and non-CAP Tribes), CAP users, and others who may be interested in CAP water. As stated in the DEIS, Reclamation has an obligation to protect Indian trust assets from adverse impacts resulting from its programs (pg. 3.14-1). Furthermore, in the interest of international cooperation, Reclamation should address the mitigation concerns of Mexico per their request (Attachment Q). The FEIS should describe mitigation options and who could fund and implement them. We note that CEQ regulations state that the EIS should include the "means to mitigate adverse environmental effects." (40 CFR 1502.16(h)).

8 Because of the above significant concerns, we have rated the proposed alternatives and DEIS as EC-2, Environmental Concerns - Insufficient Information (see attached "Summary of the EPA Rating System"). We trust that these comments will assist you in improving the document so that you can move forward with this important action. We urge adoption of a conservative and protective alternative which would maximize long-term operational flexibility, minimize the risk of more frequent and higher magnitude shortages, and ensure aggressive implementation of California's 4.4 Plan.

3: Potential effects on water supply to the lower Basin states, Indian Tribes, and Mexico; water quality; hydropower production; and recreational facilities are discussed in the EIS. Determining the effects on individual water users is beyond the scope of the EIS. Flows to Mexico and potential transboundary effects are discussed in Section 3.16.

4: Because the proposed action is implementation of interim surplus criteria (surplus has and will be delivered under the No Action Alternative/AOP), Reclamation has determined that analysis of potential indirect effects associated with the use of Colorado River water is outside of the area of potential effect as defined in the EIS and is not within the purview of Reclamation's Federal action or the NEPA process being conducted for interim surplus criteria. The indirect effects analysis from the use of any Colorado River apportionment is the responsibility of the California parties and any other state users. It should be noted that California's Colorado River depletion has been 600-800 kaf over their 4.4 apportionment for a number of years. This demand has been met historically through unused apportionment and surplus deliveries.

5: No significant impacts have been identified that require specific mitigation. However, Section 3.17 has been added to the FEIS to discuss environmental commitments that Reclamation would commit upon adoption of interim surplus criteria through the Secretary's Record of Decision.

6: The CAP master contract, through which the Tribes receive water has no guarantee of the availability of water. The Department is of the opinion that the trust asset in this case is the contract the Tribes have for delivery of CAP water. This contract has fully disclosed the potential diminishment of the water. The EIS, in Section 3.14.3 has fully disclosed the impacts of this action to the delivery of CAP water.

7: Potential effects in Mexico will be addressed through continued coordination with Mexico.

8: Comment noted.

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We appreciate the opportunity to review this DEIS. Please send three (3) copies of the Final environmental impact statement to this office at the same time it is officially filed with our HQ Office of Federal Activities. If you have any questions, please call Laura Fujii, of my staff, at 415-744-1601, email: fujii.laura@epa.gov.

Sincerely,



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Enclosure: Detailed Comments (8 pages)  
Summary of the EPA Rating System

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