

## COMMENT LETTER

## RESPONSES

DEIS COMMENTS, BOR, INTERIM SURPLUS CRITERIA, SEPT. 2009

cont'd

FEIS should include more specific information on the government-to-government meetings held with all potentially affected tribes, a list of each Tribes' concerns, and how these concerns have been addressed. We are especially interested in how Indian trust assets would be protected in unadjudicated shared water basins/aquifers.

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2. The majority of Section 3.14 is focused on potential impacts to Tribes that utilize CAP water. The evaluation is confusing because it refers to the loss of Non-Indian Agriculture water when discussing losses to Indian Central Arizona Project customers. We suggest providing a table with data of the potential loss of water to the Tribes (either collectively or for each Tribe) for each interim surplus criteria alternative for 2015 and 2050 with the assumption that the Gila River Indian Community Settlement has been implemented.

BIOLOGICAL EFFECTS

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1. The DEIS appears to focus on potential impacts to special species within the region encompassed by Lake Mead, Lake Powell, and the Grand Canyon between Glen Canyon Dam and Lake Mead. It is not clear how extensively potential impacts to species below Lake Mead were addressed. We recommend the FEIS include, at least a summary, of potential impacts to biological resources in each of the significant reaches of the river (Lake Powell, Glen Canyon Dam to Lake Mead, Lake Mead, and below Lake Mead to the International Border).

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2. Although the DEIS references the Biological and Conference Opinion on Lower Colorado River Operations and Maintenance (BCO), it does not provide a summary of the 17 specific provisions made pursuant to the reasonable and prudent alternative as defined by the BCO. We recommend the FEIS provide this summary in order to provide a clear picture of what actions Reclamation is taking to benefit the riparian region of the lower Colorado River and its special status species.

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3. We note that a separate Section 7 Endangered Species Act consultation is being conducted for this DEIS (pg. 1-25). We understand that consultation is not yet complete and that there is the intent to include consultation results in the FEIS. EPA supports this intent and urges Reclamation to make a firm effort and commitment towards completing consultation and providing a copy of US Fish and Wildlife Service decision within the FEIS.

GENERAL ISSUES

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1. The DEIS states that the All-American Canal is used to divert water for Mexico (pg. 1-19). The FEIS should provide a short description of how this is done or provide this information on one of the project maps.

30 (cont'd): LCRAS is fully functional and is undergoing a demonstration phase. The LCRAS program has also funded a study by the Geological Survey to determine the standard error of estimate of the stream-flow gages along the mainstream used by the LCRAS water budget. The results of this study will not only improve LCRAS, but will also identify and quantify the practical limits of water measurement capabilities with the current measurement network in place; providing the basis for an analysis of technically feasible and economically justifiable modifications to the current water-measurement network. The effort to identify diverters who exceed their entitlements includes an analysis of water use by riparian vegetation within diverter boundaries to determine the proper portion of water use by riparian vegetation that should be included in the consumptive use calculation for each diverter. The implementation of LCRAS, together with a determination of what portion of water use by riparian vegetation should be charged to each diverter, will provide a complete and supportable value of consumptive use that can be compared with the contract entitlement of the diverter.

31: See response to Comment 56-6. Reparations as provided in the Working Draft of the Seven States Plan would assist all users of CAP water.

32: Reclamation is not proposing to make reparations part of the interim surplus criteria.

33: This issue is handled by an overall settlement in central Arizona between the United States and the CAWCD. The United States has made agreements which protect the Indian portion or interest in a shared aquifer. In addition, the storage of surplus water in an aquifer in a shared basin is considered a positive impact by tribes located within shared water basins because the water stored in the aquifer is increased. Chapter 5 has more specific information regarding the consultations with the Tribes.

34: Some non-Indian agricultural water has been reallocated to Indian users of CAP water. When non-Indian agricultural water is allocated to Indians, the water retains its non-Indian agricultural priority and is referred to as "non-Indian agricultural water". Table 3.14-4 shows the potential loss of water by tribes under the GRIC Settlement. Line 3 of the title of Table 3.14-4 has been corrected to read, "Likely Future With GRIC Settlement."

35: Additional analysis of potential effects below Lake Mead have been incorporated into Section 3.5, Water Quality, Section 3.7, Aquatic Resources, (potential effects of changes in Hoover Dam release water temperature on fisheries below Hoover Dam to Lake Mohave), and Section 3.8 to discuss potential effects between Hoover Dam and the SIB.

36: The noted documents are incorporated by reference and are available for review by the public at Reclamation's Office. The BCO has been provided to interested public and agencies and is available on Reclamation's web site.

37: Section 7 consultation is in progress.

38: Please refer to Section 3.3.4.5.4 for a description of river flows below Imperial Dam and delivery of water to Mexico.

## COMMENT LETTER

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DEIS COMMENTS, BOR, INTERIM SURPLUS CRITERIA, SEPT. 2000

- 39 | 2. Chapter 3 Affected Environment and Environmental Consequences often illustrates potential effects using figures and charts (e.g., Figure 3.3-19a-d, Figure 3.4-6). We suggest providing an explanatory example on how to accurately interpret these figures and charts.
- 40 | 3. Modeled annual depletions of various interim surplus criteria (e.g., Figure 3.4-12, pg. 3.4-22) indicate surplus conditions for the period 2001 to 2004. The FEIS should provide an explanation for this surplus. Is the high level of depletions available for these years because the system is already relatively full and can therefore provide surplus water for the next few years? or is this surplus due to the continued availability of unused Arizona apportionment?

39: Additional explanation has been added to Section 3.3 and Section 3.4 with respect to the interpretation of the figures in these sections and the meaning of the analysis results.

40: The observed surpluses are due to relatively full starting conditions of Colorado River reservoirs. You will notice that the FEIS graphs have been modified. See Section 3.3.4.1 for a detailed explanation.

## SUMMARY OF EPA RATING DEFINITIONS

This rating system was developed as a means to summarize EPA's level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the EIS.

### ENVIRONMENTAL IMPACT OF THE ACTION

#### *"LO" (Lack of Objections)*

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

#### *"EC" (Environmental Concerns)*

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

#### *"EO" (Environmental Objections)*

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

#### *"EU" (Environmentally Unsatisfactory)*

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

### ADEQUACY OF THE IMPACT STATEMENT

#### *Category 1" (Adequate)*

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

#### *"Category 2" (Insufficient Information)*

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

#### *"Category 3" (Inadequate)*

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

\*From EPA Manual 1640, "Policy and Procedures for the Review of Federal Actions Impacting the Environment."