

CHAPTER 5 – CONSULTATION AND COORDINATION

5.1 INTRODUCTION

This chapter summarizes the consultation and coordination Reclamation conducted with various publics in preparing for and compiling this DEIS.

5.2 SCOPING ACTIVITIES

In 1999, Reclamation conducted a public scoping process that featured public scoping meetings to inform interested parties of the need for and potential form of interim surplus criteria, and to obtain public comment to assist in scoping the alternatives and the range of environmental aspects to be addressed in the DEIS. The scoping meetings were held in June 1999 at Las Vegas, Nevada; Phoenix, Arizona; Ontario, California; and Salt Lake City, Utah. The meetings were announced in May 1999 by means of notices in the Federal Register and regional press releases, and in June 1999 by means of letters to interested Federal and State agencies and members of the public known to have an interest on Colorado River operation.

Additionally, Reclamation issued a Notice of Intent to prepare this DEIS in the Federal Register in December 1999. Attachment P to this DEIS contains details of the scoping process and a digest of public comments that resulted from the scoping process. The public comments in the form of letters to reclamation (35 letters) and oral responses at the public meetings (8 presenters) expressed numerous concerns regarding the effect of the proposed interim surplus criteria on the future quantity of water available from the Colorado River.

5.3 FEDERAL AGENCY COORDINATION

The NPS and the United States Section of the IBWC are cooperating agencies for purposes of assisting with compiling information and conducting the environmental analyses in this DEIS. In addition, Reclamation has coordinated with various other Federal and state agencies in the development of this DEIS. These coordination efforts are summarized in the following sections.

5.3.1 NATIONAL PARK SERVICE

As discussed in Section 1.1.5, NPS is a cooperating agency with Reclamation for the purposes of NEPA compliance activities associated with interim surplus criteria, in recognition of its administration of national park and recreation areas along the Colorado River corridor. This status has facilitated close coordination with the NPS in providing information, document review and input during the preparation of this DEIS. The NPS offices involved in these activities are at the GCNRA, Grand

Canyon National Park, and the LMNRA, under the coordination of the first named office.

5.3.2 UNITED STATES SECTION OF THE INTERNATIONAL BOUNDARY AND WATER COMMISSION

As discussed in Section 1.1.5, the United States Section of the IBWC is a cooperating agency with Reclamation for the purposes of NEPA compliance activities associated with interim surplus criteria, in recognition of its administration of Treaty obligations with Mexico. This participation has facilitated close coordination with the United States Section of the IBWC in developing information needed for this DEIS and assistance with its preparation and coordination with Mexico as discussed below in Section 5.6. The United States Section of the IBWC at El Paso, Texas is directly involved in this coordination.

5.3.3 U.S. FISH AND WILDLIFE SERVICE AND ENDANGERED SPECIES ACT COMPLIANCE

Under Section 7(a)(2) of the Endangered Species Act (ESA), 16 U.S.C. § 1536 (a)(2), each Federal agency must, in consultation with the Secretary (either the Secretary of Commerce through the National Marine Fisheries Service or the Secretary of the Interior through the Fish and Wildlife Service), insure that any discretionary action authorized, funded, or carried out by the agency “is not likely to jeopardize the continued existence of any [listed] species or result in the destruction or adverse modification” of designated critical habitat. To assist agencies in complying with the requirements of Section 7(a)(2), the statute and ESA’s implementing regulations set out a detailed consultation process for determining the biological impacts of a proposed discretionary activity. The consultation is described in regulations promulgated at 50 C.F.R. § 402.

Adoption of specific interim surplus criteria by Reclamation is a discretionary federal action and is therefore subject to compliance with the ESA. Reclamation anticipates that the action area for any required consultation will be within the 100-year floodplain and Lakes Mead, Mohave and Havasu to full pool elevations of the Colorado River. Implementation of the interim surplus criteria is not expected to effect any listed species upriver of Lake Mead (full pool elevation) nor impact implementation of any elements of the existing Biological Opinion on operation of Glen Canyon Dam. Further, implementation of interim surplus criteria is not anticipated to effect any listed species in areas beyond the 100-year floodplain and Lakes Mead, Mohave and Havasu full pool elevations of the lower Colorado River.

On May 22, 2000, Reclamation provided the Service listed or proposed species and designated or proposed critical habitat that may be present in the action area. The Service provided a response to Reclamation on June 5, 2000, that concurred with Reclamation’s list and added two species: Bald Eagle and Desert Pupfish. This

information will be used to conduct an accounting of potential effects of the proposed interim surplus criteria.

5.3.4 WATER RESOURCES STAKEHOLDER

Reclamation meets regularly with representatives of the Basin States and other stakeholders as part of the Colorado River Management Work Group, through which the development of the AOP of the Colorado River system is coordinated among the States and others. It was through such coordination actions that Reclamation presented the alternative surplus strategies described in Section 2.2.1. Operating Strategies for Surplus Determination to the interested public.

Since the May 18, 1999, Notice of Intent, Reclamation has had discussions with numerous stakeholders regarding implementation of ISC. These include the Basin States/Ten Tribes Partnership, environmental groups, and tribes.

5.3.5 NATIONAL HISTORIC PRESERVATION ACT COMPLIANCE

As mentioned in Section 3.13 for cultural resources, Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended, requires all Federal agencies to take into account the effects of their actions on historic properties, and to afford the Advisory Council on Historic Preservation (Council) a reasonable opportunity to comment when an action will have an effect on historic properties. The Council's recommended approach for consultation for the Protection of Historic Properties is found at 36 CFR 800 (FR Vol. 64, No. 95, May 18, 1999, pages 27071-27084).

The first step of the Section 106 process, as set forth at 36 CFR 800.3(a), is for the Agency Official to "determine whether the proposed Federal action is an undertaking as defined in §800.16(y) and, if so, whether it is a type of activity that has the potential to cause effects to historic properties." Reclamation has determined development and implementation of interim surplus criteria meets the definition of an undertaking, but an undertaking that is without potential to effect historic properties. Reclamation's determination and the rationale for its decision is documented in Section 3.13. Per 36 CFR 800.3(a)(1), "if the undertaking does not have the potential to cause effects on historic properties, the Agency Official has no further obligations under section 106 or this part," Reclamation has fulfilled its responsibilities to take into account the effects of the development and implementation of interim surplus criteria on historic properties.

5.4 NATIVE AMERICAN COMMUNITIES

As discussed in Section 3.14, Indian Trust Assets, Reclamation has been coordinating river operations with the Indian Tribes and communities who have entitlements to Colorado River water. In addition, the scoping meetings described

above were attended by representatives of various Tribes. Tribes subsequently provided comments on the formulation and evaluation of the interim surplus criteria to Reclamation in response to presentations and discussions at the scoping meetings. Since May 1999, Reclamation has had numerous meetings with the various tribes who have an interest in the implementation of ISC.

5.5 INTERNATIONAL COORDINATION

Pursuant to an international agreement for mandatory reciprocal consultations, Reclamation, through the IBWC, has begun consultations with Mexico. Reclamation has assisted the United States Section of the IBWC in conducting this consultation by providing information on the proposed interim surplus criteria and by participating in briefings of the Mexico Section of the IBWC and the Mexico National Water Commission. Meetings with representatives of Mexico were conducted in April and May 2000, at which representatives provided their concerns regarding the interim surplus criteria.

Reclamation is in the process of analyzing and documenting any transboundary effects of the proposed interim surplus criteria. This analysis will provide an analytical tool for identifying those potential impacts that extend across the international border and affect Mexico's environment. This approach is fully consistent with CEQ guidance on NEPA analyses for transboundary impacts, dated July 1, 1997.