



United States Department of the Interior



BUREAU OF RECLAMATION

Yuma Area Office
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YAO-2240
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JUL -2 1999

MEMORANDUM

To: Regional Director, Boulder City NV
Attention: LC-1000, LC-2000, LC-4000
From: Gary L. Bryant
Acting Area Manager
Subject: Reexamination and Analysis of the 1994 Final
Environmental Impact Statement/Environmental Impact
Report and Record of Decision for the All-American
Canal Lining Project

Handwritten file copy stamp with date JUL 6 1999 and various initials and numbers.

The All-American Canal (AAC) was constructed in the 1930's by the Bureau of Reclamation and began delivering water in the 1940's. Although lining the All-American Canal has been considered for decades, incentives to do so did not materialize until 1988. On November 17, 1988, Public Law 100-675 authorized the Secretary of the Interior to line the canal or to recover the seepage from the canal using construction funds from California water agencies entitled to the use of Colorado River water. In cooperation with California water agencies, Reclamation prepared the final Environmental Impact Statement/Environmental Impact Report (EIS/EIR) in 1994.

The Council on Environmental Quality regulations as set forth in the 40 most asked questions concerning the National Environmental Policy Act (NEPA) requires a careful reexamination and analysis of any EIS that is more than 5 years old to determine if the criteria in 40 CFR § 1502.9(c) compel preparation of an EIS supplement. Reclamation has carefully reexamined the adequacy of the subject final EIS/EIR and Record of Decision (ROD), section by section, and determined that the information is still current; that there have been no substantial changes in the proposed action nor significant new circumstances or information relevant to environmental concerns; and that the final EIS/EIR continues to meet the requirements of NEPA (attachment).

Three areas were found where additional information would have been provided had the final EIS/EIR and ROD been written today. These areas will be included within the remaining two environmental documents (Biological Mitigation Plan and Class III Cultural Resources Inventory/Section 106 Consultation) that need to be finalized prior to the initiation of construction. It is the conclusion of this office that none of these areas constitute significant new circumstances or information relevant to environmental concerns that would require a supplemental document or changes to the subject final EIS/EIR/ROD.

a. **Southwestern Willow Flycatcher (*Empidonax traillii extimus*):** The Southwestern Willow Flycatcher was proposed for listing as an endangered species in 1993 and was federally listed as an endangered species in 1995. During the public comment period for the draft EIS/EIR and the Section 7 consultations with the United States Fish and Wildlife Service (Service) no comments were received indicating that the Southwestern Willow Flycatcher required evaluation for this project. According to the Service, the AAC Lining Project is outside of designated "critical habitat" for this species. In light of the species listing since the final EIS/EIR, Reclamation decided to conduct a field survey to evaluate the project area for potential impacts to the flycatcher. A site visit on May 20, 1999, by Robert McKernan, Senior Curator of Biological Sciences at the San Bernardino County Museum and a specialist in Southwestern riparian obligate bird species including the Southwestern Willow Flycatcher, determined that the existing riparian habitat along the AAC cannot sustain nor is it suitable for Southwestern Willow Flycatcher breeding habitat. After surveying all the existing riparian habitat in the area, it was determined that the species would not find suitable nesting habitat in the area. Although there are Goodding Willows (*Salix Gooddingii*) in the area, the habitat is too linear, fragmented, and alkaline to support the Southwestern Willow Flycatcher. The species is not found in the area during breeding season, however, that does not preclude the AAC from being utilized as a migratory route for this species and for various other neotropical migratory bird species. For the above reasons, the listing of this species since the completion of the final EIS/EIR and ROD does not constitute significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. Habitat

structure and quality is not expected to change prior to the 2006 completion date of the proposed action; therefore, the proposed AAC Lining Project would result in a "no effect" determination for this species.

b. **Access to Indian Sacred Sites:** On May 24, 1996, President Clinton issued Executive Order 13007 on Indian Sacred Sites. This Executive Order instructs Federal land managers to promote accommodation of access to, and protect the physical integrity of Indian sacred sites. Access is currently provided to several of the known sacred sites located at Pilot Knob. This project would not affect the existing access.

c. **Environmental Justice:** On February 11, 1994, President Clinton issued Executive Order 12898 on Environmental Justice. This is not considered a significant issue because the project is located in an isolated desert area with no United States minority nor low-income communities located near or adjacent to the canal.

We have further analyzed the document with respect to the California Environmental Quality Act (CEQA) Section 21166 - Subsequent or Supplemental Environmental Impact Reports (Article 11, Parts 15162, 15163, and 15164). The CEQA states that, no subsequent or supplemental environmental impact report shall be required by the lead agency or by any responsible agency, unless there has been substantial changes to the project, the circumstances of its undertaking, or new information. No change to the purpose and need for the proposed action and preferred action have occurred, nor have there been substantial changes with respect to circumstances or new information. We believe the final EIS/EIR continues to satisfy the CEQA requirements.

The attached intensive review of the final EIS/EIR for the AAC Lining Project and its findings indicate that the documents still meet NEPA requirements and should be valid until the completion of construction in 2006.

Please contact Ms. Chris Bates, Environmental Protection Specialist, at 520-343-8266 or me at 520-343-8155 for additional information or clarification regarding these matters.

Please indicate your concurrence by signing below.

Russell W. Beckelt

Regional Director

Attachment

REEXAMINATION AND ANALYSIS
OF THE
ALL-AMERICAN CANAL LINING
FINAL ENVIRONMENTAL IMPACT STATEMENT/
ENVIRONMENTAL IMPACT REPORT
(MARCH 1994)

AND THE
RECORD OF DECISION
(JULY 1994)

COMPLETED
MAY 1999

SUMMARY OF REEXAMINATION AND ANALYSIS (MAY 1999)

I. BACKGROUND

In April 1994, the final Environmental Impact Statement/ Environmental Impact Report (EIS/EIR) for the All-American Canal (AAC) Lining Project was completed. This joint document was prepared pursuant to the National Environmental Policy Act of 1969, as amended (NEPA), the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA (40 CFR § 1500 through 1508), Reclamation's NEPA Handbook, and the California Environmental Quality Act of 1973, as amended (CEQA). The Record of Decision (ROD) was signed on July 29, 1994. The final EIS/EIR analyzed the environmental impacts associated with the lining of the AAC. The purpose of the AAC Lining Project is to conserve water (approximately 67,000 acre-feet) that is currently being lost through seepage through the 23-mile section of the unlined canal.

The AAC was constructed in the 1930's by the Bureau of Reclamation and began delivering water in the 1940's. Although lining the AAC has been considered for decades, incentives to do so did not materialize until 1988. On November 17, 1988, Public Law 100-675 authorized the Secretary of the Interior to line the canal or to recover the seepage from the canal using construction funds from California water agencies entitled to the use of Colorado River water. The final EIS/EIR analyzed four action alternatives which included mitigation measures to compensate for potential impacts on fish and wildlife habitat and the no-action alternative. The alternatives include:

1. The Parallel Canal Alternative proposed the construction of a new concrete-lined canal parallel to 23 miles of the earthen AAC. It would begin approximately 1.6 miles downstream of Pilot Knob and end at Drop 3. The Parallel Canal Alternative was identified as the agencies Preferred Alternative in the final EIS/EIR and ROD.
2. The Drop 3 Alternative proposed the construction and in-place underwater lining from Pilot Knob to Drop 3.
3. The Drop 4 Alternative proposed the construction and in-place underwater lining from Pilot Knob to Drop 4.

4. The Well Field Alternative proposed drilling wells and pumping water back into the existing canal between Pilot Knob and Drop 2.

5. The No-Action Alternative proposed allowing the canal to remain unlined and the current seepage loss to continue.

The Parallel Canal Alternative was selected for implementation in the ROD from among the canal lining alternatives because it had the lowest construction cost estimate, used a well-established construction method, and would have the shortest construction period. This alternative avoids disturbance of the 1,430-acre wetland complex between Drop 3 and Drop 4, and disturbance of cultural resources in the Pilot Knob Area of Critical Environmental Concern. Each alternative was discussed in the ROD regarding their positive and negative impacts on the environment. All of the action alternatives are viable alternatives once the proposed mitigation measures are implemented.

II. REEXAMINATION AND ANALYSIS PERFORMED

In light of recent renewed interest in the canal lining project, this reexamination and analysis of the final EIS/EIR was performed by the Yuma Area Office and reviewed by the Lower Colorado Regional Office. Each section was carefully analyzed and reviewed by knowledgeable professionals from within the agency and contracted specialists specifically having jurisdiction or expertise relevant to the NEPA process and potential affects on resource issues. A list of reviewers is provided at the end of this document. Each environmental professional reviewed the appropriate sections discussed within the final EIS/EIR, Chapters I-VIII. Reviewers also surveyed the AAC and the existing riparian habitat with ground units and by helicopter to determine if any new changes to the environment have taken place. Based on these reviews, we conclude that there have been no significant changes to the environment along the AAC since completion of the final EIS/EIR in 1994.

The CEQ regulations provide the clearest direction for the review of EIS's and preparation of supplemental statements before a proposal has been implemented. The CEQ regulations cited in the Federal Register, Volume 46, No. 55, Monday, March 23, 1981, Rules and Regulations, page 18036 states that: "As a rule of thumb, if a proposal has not yet been implemented, or if the EIS concerns an ongoing program, EIS's that are more than 5 years old should be carefully reexamined to determine if the criteria in Section 1502.9(c) compel preparation of an EIS supplement" (CEQ's Forty Most Asked Questions, No. 32). Agencies shall prepare supplements to either draft or final EIS's if:

1. The agency makes substantial changes in the proposed action that are relevant to environmental concerns; or
2. There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

A supplemental EIS must be prepared for an EIS so that the agency has the best possible information to make any necessary substantive changes in its decisions regarding the proposal. The CEQA has similar guidelines for the preparation of either a subsequent, supplement, or an addendum to an EIR but without a time limit (Article 11, Parts 15162, 15163, and 15164).

In evaluating the present day adequacy of the final EIS/EIR, the criteria in Section 1502.9(c) were employed to determine if the proposed action/preferred alternative and current environmental conditions have changed as compared to those in 1994. The CEQA guidance is also satisfied by these criteria.

III. SUMMARY OF FINAL EIS/EIR CHAPTERS

CHAPTER I: PURPOSE AND NEED

There have been no changes in the purpose and need for the Proposed Project in the last 5 years that have relevance to environmental concerns nor are any substantial changes expected to occur prior to 2006.

CHAPTER II: ALTERNATIVES

There have been no changes in the Scope of Alternatives, the Parallel Canal Alternative/Preferred Alternative, or other Action Alternatives in the last 5 years that have relevance to environmental concerns nor are any substantial changes to these Action Alternatives expected to occur prior to 2006. With the possibility of new technology there could be a viable combination of two Action Alternatives, for example, the Parallel Canal and In-Place Lining. If this combination of Action Alternatives is reconsidered there would not be a need for additional environmental compliance since these Action Alternatives have already been analyzed and the overall impacts would be reduced. If a new combination Preferred Alternative is selected, the ROD would have to be amended and/or reissued.

CHAPTER III: AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES

No significant new circumstances nor information relevant to environmental concerns have occurred within the past 5 years bearing on the Proposed Action/Preferred Action, other Action Alternatives, the Affected Environment nor the following analyzed issue areas: Ground Water, Surface Water, Water Quality (See ROD), Air Quality, Wetlands Habitat Along the AAC, Wetlands Habitat Along the Colorado River, Terrestrial Habitat, Special Status Species (See comment on Southwestern Willow Flycatcher), Large Mammal Escape, Canal Fishery, Cultural Resources, Recreation, Land Ownership and Use, Sand and Gravel Supplies, Transportation, Hydroelectric Power, Project Operating Energy Requirements, Public Safety, Employment and Income During Construction, Local Community Structure, Immigration From Mexico, Growth Inducement, Indian Trust Assets. Significant new circumstances or information relevant to environmental concerns are not expected to occur in regard to these issue areas prior to project completion in 2006.

After completion of the final EIS/EIR and ROD in 1994, Reclamation required analysis of two additional environmental issue areas. The following information supplements the issue area analysis in Chapter VII of the final EIS/EIR and ROD.

ENVIRONMENTAL JUSTICE: On February 11, 1994, President Clinton issued Executive Order 12898 on Environmental Justice. Each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands. There should be no environmental justice issues for the Proposed Project since the project area is uninhabited desert. Because there are no minority or low-income populations within or adjacent to the project area, no significant new circumstances or information relevant to environmental concerns bearing on the proposed action are produced that change the findings in the final EIS/EIR and the ROD.

INDIAN SACRED SITES: On May 24, 1996, President Clinton issued Executive Order 13007 on Access to Indian Sacred Sites. Pursuant to this Executive Order, Reclamation is required, to the extent practicable and consistent with essential agency functions to accommodate access to and ceremonial use of Indian sacred sites by Indian religions practitioners, avoid adversely affecting the physical integrity of such sacred sites, and address this issue area in any NEPA analysis. With the Indian consultation

commitments in the final EIS/EIR and ROD there should not be any significant conflicts on access to sacred sites. The Proposed Project as described in the final EIS/EIR was modified to avoid all known sacred sites. The ROD requires the completion of the Class III Cultural Resources Inventory/Section 106 Consultation prior to construction as a method of ensuring that this Executive Order is complied with. Project modification to avoid known sacred sites will be addressed in the Class III survey report and Section 106 consultation with the State Historic Preservation Officer and affected Tribes. A review of this issue area indicates no significant new circumstances or information relevant to environmental concerns bearing on the proposed action are produced that would change the findings in the final EIS/EIR and the ROD.

Significant new circumstances or information relevant to environmental concerns are not expected to occur in regard to these issue areas prior to project completion in 2006.

CHAPTER IV: CUMULATIVE IMPACTS

No significant new circumstances or information relevant to environmental concerns have occurred within the past 5 years bearing on the Proposed Action/Preferred Action or its impacts regarding the following issue areas: The Colorado River, Hydroelectric Power Along the AAC, and Hydroelectric Power Along the Colorado River. Significant new circumstances or information relevant to environmental concerns are not expected to occur in regard to these issue areas prior to project completion in 2006.

After approval of the final EIS/EIR and ROD in 1994, Reclamation prepared a biological assessment (BA) entitled, *Description and Assessment of Operations, Maintenance, and Sensitive Species of the Lower Colorado River* in August 1996 in support of formal Section 7 consultation with the Service. The BA also supported the development of the Lower Colorado River (LCR) Multi-Species Conservation Program (MSCP). The information in the AAC Lining Project final EIS/EIR was incorporated by reference into the BA including the discussion of cumulative impacts for the issues noted above. In April 1997, the Service issued its Biological and Conference Opinion (BCO). The BCO provides Endangered Species Act of 1973, as amended (ESA), compliance for Reclamation's operations and maintenance of the LCR under ESA, while the MSCP is being developed. The MSCP, once approved will provide Reclamation ESA compliance for actions after this initial 5-year period. The LCR MSCP and EIS/EIR will analyze the impacts from all projected diversions of Colorado River Water on the LCR for the next 50 years including the conserved water from the AAC Lining Project.

CHAPTER V: SHORT-TERM USE OF MAN'S ENVIRONMENT VERSUS MAINTENANCE OF LONG-TERM PRODUCTIVITY

No significant new circumstances or information relevant to environmental concerns have occurred within the past 5 years bearing on the Proposed Action/Preferred Action or its impacts regarding the following issue areas: Cultural Values and Native Vegetation. No significant new circumstances or information relevant to environmental concerns are not expected to occur regarding these issue areas prior to project completion in 2006.

CHAPTER VI: IRREVERSIBLE AND IRRETRIEVABLE COMMITMENT OF RESOURCES

No significant new circumstances or information relevant to environmental concerns have occurred within the past 5 years bearing on the Proposed Action/Preferred Action or its impacts regarding the following issue areas: Cultural Resources, Land Ownership and Use, Sand and Gravel, and Hydroelectric Power. Significant new circumstances or information relevant to environmental concerns are not expected to occur regarding these issue areas prior to project completion in 2006.

CHAPTER VII: ENVIRONMENTAL COMMITMENTS

Changes to the environmental commitments are not required because there have been no substantial changes in the purpose and need for the Proposed Project, Scope of Alternatives, the Preferred Alternative, nor other Action Alternatives in the past 5 years that are relevant to environmental concerns; nor have there been any significant new circumstances or information relevant to environmental concerns bearing on the proposed action or its impacts on issue areas of the affected environment. The environmental commitments developed for implementation of the Preferred Alternative represents a living document that may be amended to accommodate new information or changed conditions through the life of the project. Completion of the biological commitment plan will incorporate requirements in the BCO and update species information for this project. New or expanded commitments may arise from completion of this document as a result new or additional information. Completion of the Class III Cultural Resources Inventory/Section 106 Consultation may also produce additional environmental commitments.

CHAPTER VIII: CONSULTATION AND COORDINATION

Consultation, coordination, and public involvement are constant features of and represent a continuing process pursuant to NEPA and CEQA. Reclamation has completed all consultation, coordination, and public involvement requirements for completion

of the final EIS/EIR and ROD. Reclamation and its partners in the AAC Lining Project will continue the consultation and coordination process with affected agencies, tribes, and interested parties identified in this chapter during completion of the biological mitigation plan, cultural resource inventories and consultation with the State Historic Preservation Officer, and during the design and construction phases of the project. The affected agencies, tribes, interested parties, and subject areas have not changed in the last 5 years and are unlikely to do so prior to 2006 the estimated completion date of this project.

IV. ADDITIONAL ISSUES

The following issue areas were not required for analysis in the 1994 final EIS/EIR or ROD, but are discussed to document the information reviewed during this analysis. With respect to items b and c below, documentation will be prepared prior to initiating construction. None of these three issues result in significant new circumstances or information relevant to environmental concerns bearing on the proposed action or its impacts, therefore, that would not trigger additional nor supplemental NEPA documentation.

a. Southwestern Willow Flycatcher (*Empidonax traillii eximus*): The Southwestern Willow Flycatcher was proposed for listing as an endangered species in 1993 and was federally listed as an endangered species in 1995. During the public comment period for the draft EIS/EIR and the Section 7 consultations with the United States Fish and Wildlife Service (Service) no comments were received indicating that the Southwestern Willow Flycatcher required evaluation for this project. According to the Service, the AAC Lining Project is outside of designated "critical habitat" for this species. A site visit on May 20, 1999, by Robert McKernan, Senior Curator of Biological Sciences at the San Bernardino County Museum and a specialist in Southwestern riparian obligate bird species including the Southwestern Willow Flycatcher, determined that the existing riparian habitat along the AAC cannot sustain nor is it suitable for Southwestern Willow Flycatcher breeding habitat. After surveying all the existing riparian habitat in the area, it was determined that the species would not find suitable nesting habitat in the area. Although there are Goodding Willows (*Salix Gooddingii*) in the area, the habitat is too linear, fragmented, and alkaline to support the Southwestern Willow Flycatcher. The species is not found in the area during breeding season, however, that does not

preclude the AAC from being utilized as a migratory route for this species and for various other neotropical migratory bird species. For the above reasons, the listing of this species since the completion of the final EIS/EIR and ROD does not constitute significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. Habitat structure and quality are not expected to change prior to the 2006 completion date of the proposed action; therefore, the proposed AAC Lining Project would result in a "no effect" determination for this species.

b. Access to Indian Sacred Sites: On May 24, 1996, President Clinton issued Executive Order 13007 on Indian Sacred Sites. This Executive Order instructs Federal land managers to promote accommodation of access to, and protect the physical integrity of Indian Sacred Sites. Access is currently provided to several of the sacred sites located at Pilot Knob.

c. Environmental Justice: On February 11, 1994, President Clinton issued Executive Order 12898 on Environmental Justice. This is not considered a significant issue because the AAC is located in an isolated desert area with no United States minority nor low-income communities located near or adjacent to the canal.

The Biological Mitigation Plan and the Class III Cultural Resources Inventory/Section 106 consultation are environmental commitments to be completed prior to construction as identified in the ROD. These documents and processes will incorporate the above issues.

V. DETERMINATION

Upon review of the final EIS/EIR and ROD for the AAC Lining Project, pursuant to NEPA and its implementing regulations, the directives and guidelines in Reclamation's NEPA Handbook, and the CEQA guidance, Reclamation has determined that the NEPA compliance for this project remains current and comprehensive. There have been no changes in the Proposed Project/Preferred Alternative, action alternatives, nor significant new circumstances or information relevant to environmental concerns from those disclosed in the 1994 final EIS/EIR and ROD. Therefore, a supplement to the final EIS/EIR and ROD for the AAC Lining Project is not required.