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4/30/07
BCO-1000

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April 27, 2007

Acting Regional Directors
US Bureau of Reclamation
Attention: BCOO-1000
Lower Colorado Region
P.O. Box 61470
Boulder City, NV 89006-1470

Re: Notice of Availability of and Notice of Public Hearings for the Draft Environmental Impact Statement ("EIS") for the Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead

Dear Ms. Harkins and Mr. Walkoviak:

The Salt River Project Agricultural Improvement and Power District and the Salt River Valley Water Users' Association (collectively referred to herein as "SRP") submit their comments on the Draft EIS for the Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead (collectively referred to herein as the "Guidelines").¹ We appreciate the opportunity to offer these comments and we hope that they will be useful to the Bureau of Reclamation ("Reclamation") in adopting Guidelines and preparing the final EIS.

Statement of Interests

SRP is a multi-purpose federal reclamation project authorized and constructed under the Reclamation Act of 1902, 43 U.S.C. § 371 *et seq.* Pursuant to various contracts with the United States, SRP operates the Project works, which include, among other things, seven reservoirs and dams on the Salt and Verde rivers in central Arizona, and East Clear Creek in Northern Arizona. Water is impounded in these reservoirs by SRP for subsequent delivery to municipal, industrial and agricultural water users in the Phoenix metropolitan area, where over half of the state's population resides. SRP holds the water rights for these reservoirs, and for the downstream uses they supply, pursuant to the state law doctrine of prior appropriation, as well as federal law.

SRP has a significant economic interest in Colorado River water supplies and the power generated at the Lower Basin dams. SRP's surface water supplies from the Salt and Verde Rivers are susceptible to drought and must be conjunctively managed by SRP with the groundwater beneath its 250,000-acre service area. Central Arizona is currently experiencing its twelfth year of drought, with several years during this period being some of the driest in more than 100 years of recorded history. Under these circumstances, the availability of Colorado

¹ 72 Fed. Reg. 9026 (February 28, 2007).

River water and power is critical to the continued economic well-being of SRP, its members and the municipalities that SRP serves in Central Arizona.

The drought of the past twelve years has made it necessary for SRP to purchase excess CAP water to supplement its diminishing Salt and Verde River water supplies, along with pumping maximum amounts of groundwater. Excess CAP water is also the principal source of supply for underground storage and groundwater savings projects in Central Arizona in which SRP has an interest. SRP contracts for and delivers agricultural priority CAP water for use on SRP agricultural lands. Additionally, through the Arizona Power Authority and Western Area Power Administration, SRP purchases large amounts of Parker-Davis and Hoover power each year and distributes the power to its customers in Central Arizona. SRP is therefore strongly interested in the outcome of this EIS process, which has the potential to markedly affect the availability of Colorado River water and power to Central Arizona during times of shortage.

SRP is also the operator of the Navajo Generating Station (“NGS”), a coal-fired power generation plant in Page, Arizona, which provides power to Reclamation for the operation of the CAP, and to power consumers throughout Arizona, Nevada and California. Water needed for the operation of NGS is supplied from Lake Powell. The dependability of this supply is essential to SRP’s continued operations of NGS. SRP is therefore interested in any criteria that the Secretary may ultimately adopt for coordinated operation of Lake Powell and Lake Mead, which may affect deliveries of water supplied to NGS.

Comments on the Interim Guidelines

I. SRP Supports the Basin States Proposal as the Preferred Alternative, as it Represents the Consensus of the Major Users of Water and Power Resources in the Lower and Upper Basins.

SRP supports the adoption of the Basin States Alternative, as modified by the suggestions of the Basin States in their comments on the draft EIS (Basin States’ Proposal”), as the Preferred Alternative in the Final EIS. As a consensus approach developed by the Lower and Upper Basin States, the Basin States Proposal minimizes impacts to the largest number of users of the resources described in the Draft EIS. The Basin States Proposal provides a mechanism for promoting the conservation of water in the Lower Basin, while at the same time minimizing shortages in the Lower Basin and avoiding the risk of curtailment of water uses in the Upper Basin.² As a balanced approach to the management of Colorado River resources, which takes into consideration and reflects the interests of and effects on various categories of resource users, the Basin States Proposal is the ideal Preferred Alternative.

The Basin States Proposal likewise provides users of mainstream Colorado River water within the United States with a greater degree of certainty regarding future amounts of annual water deliveries during times of drought and under low reservoir conditions.³ In the past, the threat of litigation has been a barrier to reaching a dependable, long-term resolution of the issues

² Draft EIS, p. 2-8.

³ A heightened degree of predictability of water supplies was a chief purpose of the proposed action, as described in the Draft EIS. See Draft EIS, p. 1-3.

related to the allocation of Lower Basin water supplies during shortage conditions, and the equalization of water levels in Lake Powell and Lake Mead. Because the Basin States Proposal was developed by consensus, the risk of future litigation challenging the adoption or implementation of this alternative by Reclamation is greatly reduced. Moreover, the Basin States Proposal can be implemented relatively quickly following the conclusion of the NEPA process, without further action by Reclamation; consequently, its adoption would provide more immediate predictability to water and power users regarding the management of Colorado River water supplies.

II. The Final EIS Should Individually and Comparatively Analyze the Impacts of Each of the Alternatives, When Added to the Cumulative Impacts of Past, Present and Reasonably Foreseeable Future Actions, With Respect to Each of the Resources Identified.

To ensure a complete analysis supporting the selection of the Basin States Proposal as the preferred agency alternative, the cumulative impacts analysis should be amplified in the Final EIS to more comprehensively address: (1) the impacts of past, present and reasonably foreseeable future actions with respect to each of the resources considered; (2) the impacts of each alternative when added to the impacts of other past, present and reasonably foreseeable future actions; and (3) objectively quantifiable impacts or the reasons why that is infeasible.⁴

1. Impacts of Past, Present and Reasonably Foreseeable Future Actions

The cumulative impacts section of the Draft EIS should include an evaluation of the cumulative impacts of past, present and reasonably foreseeable future actions, not part of the proposed action, on each of the resources considered. Presently, this section does not undertake a systematic analysis of these impacts. For example, it is not clear that the “closely related projects”⁵ mentioned in the text include both present and reasonably foreseeable future actions. Even as to present actions, the list of “closely related projects” is not exhaustive. Other closely related actions for which cumulative effects should have been evaluated include, for example, the Arizona water bank, the forbearance agreement between Arizona and Nevada, and municipal drought management plans entailing the use of CAP water. The cumulative impacts section also omits any discussion of the impacts of past actions on each of the resources considered in the Draft EIS. Finally, the cumulative impacts section does not consistently and methodically consider the impacts of each and all of the actions identified on each resource considered. The analysis of cumulative impacts in the Final EIS should be amplified to include this discussion and analysis.

2. Impacts of Each Alternative, When Added to the Cumulative Impacts of the Past, Present and Reasonably Foreseeable Future Actions Identified

⁴ The Cumulative Impacts section of the Draft EIS begins on page 5-6. It appears, however, that the section heading and possibly some portion of the preliminary text were inadvertently omitted from the document. The Final EIS should remedy this error.

⁵ Draft EIS, p. 5-7.

The cumulative impacts analysis in the Final EIS also should consistently address and compare the totality of the effects of each alternative, when added to the cumulative effects of past, present, and reasonably foreseeable future actions, on the environment. As presently written, the section omits any discussion of the impacts of each alternative, when added to the cumulative impacts, on each of the resources considered. The cumulative impacts section in the Final EIS should be revised to systematically provide this comparative analysis. We believe such a comparison will demonstrate that implementation of the Basin States Proposal would minimize cumulative impacts, as the States and individual resource users have already considered and attempted to minimize the effects of the Basin States Proposal when added to the impacts of their individual related actions.

3. Objective Quantification of Impacts or an Explanation of the Reasons Why an Objective Quantification of Impacts is Infeasible

Finally, the cumulative effects analysis should evaluate the impacts of each of the alternatives, plus cumulative effects, in objectively quantifiable terms, or provide an explanation of the reasons why this cannot be done. The draft cumulative impacts analysis does not refer to objective data in analyzing impacts. If the impacts described cannot be quantified in objective terms, the Draft EIS should affirmatively state this, and offer an explanation of the reasons why such quantification is infeasible.

III. The Final EIS Should Clarify the Relationship Between the Existing Federal Programs and Activities on the Lower Colorado River, Particularly the Lower Colorado River Multi-Species Conservation Program, and the Alternatives Considered in the Draft EIS With Respect to Endangered Species Act (“ESA”) Compliance.

Section 1.8 of the Draft EIS describes five “related actions” that, along with other projects discussed later in Chapter 5, “may have a cumulative impact on the environment.”⁶ These include, among others, the Lower Colorado River Multi-Species Conservation Program (“LCR MSCP”). Regarding the LCR MSCP, Chapter 1 of the Draft EIS properly notes that this program “provides ESA compliance for specific covered federal actions and non-federal activities under ESA Sections 7 and 10,” including the implementation of water shortages in the Lower Colorado River Basin.⁷ The Draft EIS then states that, “[t]o the extent that the shortage strategy adopted by the Department is within the coverage provided by the LCR MSCP, it is anticipated that adoption of that element of the proposed federal action would not require further ESA compliance.”⁸ In seeming contrast to these statements, Chapter 5, Section 5.1.1 of the Draft EIS broadly describes the obligation of Reclamation to consult on proposed action under Section 7 of the ESA, as follows:

⁶ Draft EIS, p. 1-23.

⁷ Draft EIS, p. 1-26.

⁸ *Id.*

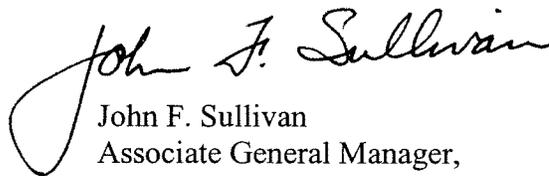
Adoption of the proposed action by the Secretary is a discretionary federal action and it is, therefore, subject to compliance with the ESA. Reclamation will request a species list from the FWS and subsequently prepare a biological assessment to address the potential effects of the proposed federal action on listed species. Once a preferred alternative is identified, the BA will be finalized and formal consultation will be initiated, if appropriate. Reclamation and the FWS will consult during 2007, with the intent of completing a BO for inclusion in the Final EIS.⁹

Section 5.1.1 does not refer to the LCR MSCP or the ESA coverage already provided to certain categories of federal actions under the program, including the implementation of shortage guidelines within certain parameters. As written, Section 5.1.1 could be interpreted as acknowledging a comprehensive obligation on the part of Reclamation to consult on all aspects of the proposed action, even those previously covered as part of the LCR MSCP. Section 5.1.1 should be modified in the Final EIS to clarify the more narrow focus of Reclamation's obligation to consult, and the relationship between ESA coverage already in place under the LCR MSCP and any additional coverage needed for the proposed action.¹⁰

Conclusion

SRP appreciates the opportunity to present these comments on the proposed Guidelines, in response to Reclamation's Federal 28, 2007 Federal Register notice. We hope that these comments will be useful to Reclamation in adopting Interim Guidelines and in selecting the preferred agency alternative and concluding the NEPA process. For the reasons urged in Part I of this letter, we strongly urge Reclamation to adopt the Basin States Proposal as the Preferred Agency Alternative. If you have any questions or need further information regarding any of the matters discussed in these comments, please do not hesitate to contact us.

Very Truly Yours,



John F. Sullivan
Associate General Manager,
Salt River Project

⁹ Draft EIS, p. 5-1.

¹⁰ As any biological opinion drafted by FWS to discuss effects of the proposed action would be included in the Final EIS, it would be both feasible and appropriate for the EIS to more fully explain the relationship between the LCR MSCP, the proposed action and any other related actions on the river, with respect to ESA compliance.

Cc: Rick Gold, Regional Director, Upper Colorado Regional Office
Herb Guenther, Director, Arizona Department of Water Resources
Bob Johnson, Commissioner, U.S. Bureau of Reclamation