



REGION 9

SAN FRANCISCO, CA 94105

November 3, 2023

Kathleen Callister
Adaptive Management and Water Quality Division Manager
Bureau of Reclamation
125 South State Street, Room 8100
Salt Lake City, Utah 84138-1147

Subject: Notice of Intent To Prepare a Supplemental Environmental Impact Statement for the December 2016 Record of Decision Entitled Glen Canyon Dam Long-Term Experimental and Management Plan

Dear Kathleen Callister:

The U.S. Environmental Protection Agency has reviewed the Bureau of Reclamation's above-referenced document. Our review and comments are provided pursuant to NEPA, Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act.

The Supplemental DEIS will analyze flow options to prevent smallmouth bass and other warmwater invasive nonnative fish from establishing below Glen Canyon Dam and will also analyze new information regarding the sediment accounting window associated with the Long-Term Experimental Management Plan High-Flow Experiment (HFE) protocol by incorporating the latest scientific information available.


We are providing the enclosed comments to assist in the development of the Supplemental EIS. The topics that the EPA recommends to be fully analyzed and disclosed include impacts to water resources, air quality, and environmental justice. We also recommend including the relevant information, including modeling, baseline conditions, and forecasts from the current Revised Draft Supplemental EIS for the Near-Term Colorado River Operations.

We appreciate the opportunity to review this scoping notice and are available to discuss our comments. When the Draft EIS is prepared for this proposed action and released for public review, please notify me and make an electronic version available. If you have questions, please contact me at (415) 972-3098 or gordon.stephanies@epa.gov.

Sincerely,

**STEPHANIE
GORDON**

Stephanie Gordon
Environmental Review Branch

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Date: 2023.11.03 16:34:52 -07'00'

General Comments

Alternatives Analysis

Explore and objectively consider a full range of alternatives and evaluate in detail all reasonable alternatives that fulfill the project's purpose and need. We encourage selection of alternatives that protect, restore, and enhance the environment, and we also support efforts to identify and select alternatives that maximize environmental benefits that avoid, minimize, and/or otherwise mitigate environmental impacts.

Recommendations:

- Present the environmental impacts of the proposed action and alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decision maker and the public (40 CFR 1502.14 (b)).
- Quantify the potential environmental impacts of each alternative to the greatest extent.
- Discuss the reasons for eliminating alternatives to the proposed action (40 CFR 1502.14 (a)).

Cumulative Impacts

Cumulative impacts are those that are reasonably foreseeable, related to the proposed action, and subject to the Bureau of Reclamation's jurisdiction and control. Considering all the actions in this area together would help decision makers to understand more clearly what the cumulative impacts on environmental resources are likely to be. The EPA has issued guidance on how to provide comments on the assessment of cumulative impacts, *Consideration of Cumulative Impacts in EPA Review of NEPA Documents*.¹

Recommendations:

- Evaluate impacts over the entire area of impact and the impacts when added to other past, present, and reasonably foreseeable future projects in the analysis area, including both the Near Term (2023-2026) and Post 2026 Long Term Colorado River Operations.
- Using the *Consideration of Cumulative Impacts in EPA Review of NEPA Documents* as a resource, include the following information:
 - Resources, if any, that are being cumulatively impacted.
 - Appropriate geographic area and the time over which the effects have occurred and will occur.
 - All past, present, and reasonably foreseeable future actions that have affected, are affecting, or would affect resources of concern.
 - A benchmark or baseline.
 - Scientifically defensible threshold levels.

Water Quality

Waterbodies

Section 303(d) of the Clean Water Act requires that states, territories, and authorized Tribes identify waterbodies that do not meet water quality standards and to develop, with EPA approval, Total Maximum Daily Loads for waters identified as impaired to meet established water quality criteria and associated beneficial uses. Because surface water quality degradation is one of the EPA's primary concerns, understanding the setting for the project is important for preparing an impact analysis.

¹ U.S. EPA May 1999. *Consideration Of Cumulative Impacts in EPA Review of NEPA Documents*. Available at <https://www.epa.gov/sites/production/files/2014-08/documents/cumulative.pdf>.

Recommendations:

- Identify water bodies likely to be impacted by the project, the nature of the potential impacts, and the specific discharges and pollutants likely to impact those waters. Include a map to illustrate where these waterbodies are within the project area.
- Disclose information regarding relevant TMDL allocations for any impaired waters listed on the latest state CWA 303(d) list or Integrated Report, along with the water quality standards and pollutants of concern.
- As the CWA anti-degradation provisions will also apply, demonstrate that the proposed action will comply with anti-degradation provisions of the CWA that prevent deterioration of water quality within waterbodies that currently meet water quality standards.
- Where TMDL analyses for impaired waterbodies within or downstream of the project area still needed to be developed, ensure that proposed actions are carefully managed to prevent any worsening of the impairment or avoided altogether where such impacts cannot be prevented.

Clean Water Act Section 404 Applicability

The protection, improvement and restoration of wetlands and riparian areas are a high priority because they increase landscape and species diversity, support many species of western wildlife, and are critical to the protection of water quality and designated beneficial water uses.

Recommendations:

- To limit the impacts of management activities to hydrology and riparian vegetation, address specific management requirements or design features to protect wetlands, including monitor restoration to evaluate the success of management activities by including follow-up monitoring and assessments as a component of management plans.
- Confirm with the U.S. Army Corps of Engineers if any jurisdictional waters would require a CWA Section 404 permit for discharge of dredged or fill materials into waters of the United States, including wetlands and “special aquatic sites.” If a permit is required, describe the impacts under individual or nationwide permits authorizing the discharge of fill or dredge materials to waters of the U.S.

Air Quality

In the Draft EIS, include a qualitative discussion of ambient air conditions (existing conditions), National Ambient Air Quality Standards, and criteria pollutant non-attainment areas in the analysis area and vicinity. This type of evaluation is helpful in demonstrating compliance with state and federal air quality regulations and disclosing the potential impacts from temporary or cumulative degradation of air quality. Evaluate whether project activities could affect air quality and include measures in the Draft EIS that are needed to prevent significant impacts. Examples of potential air emissions associated with the proposed project activities include air pollutants from gasoline and diesel emissions from equipment used in the planned activity, emissions from idling equipment, emissions from vehicles traveling on paved and unpaved roads, and re-entrained dust.

Recommendations:

- Characterize existing air quality conditions to set the context for evaluating project impacts, including identification of:
 - Class I areas, which are afforded special protections under the Clean Air Act.

- Sensitive receptors in the vicinity (such as population centers, nonattainment areas, and Class II areas with sensitive resources).
- Airshed classifications and monitored baseline conditions (design values) for each criteria pollutant.
- Any regional concerns in the area (e.g., ozone, PM_{2.5}, seasonal wildfire smoke).
- Include modeled emissions of NAAQS and greenhouse gases.
- Describe the management activities and provide timelines for implementation, if possible. This will be the basis of the information that will inform the level of emission generating activity and potential air quality impact.
- Analyze reasonable and practicable mitigation measures to reduce project-related emissions. Typical mitigation measures include fugitive dust control measures, mobile and stationary source controls, and administrative controls. Ensure the Draft EIS includes a comprehensive list of all best management practices and mitigation measures to be implemented as part of the project.

Climate Change

Consistent with Executive Order 14008 goals, we encourage measures to provide for diverse, healthy ecosystems that are resilient to climate stressors; require effective mitigation and encourage voluntary mitigation to offset the adverse impacts of projects or actions; reduce greenhouse gas emissions from authorized activities to the lowest practical levels; identify and protect areas of potential climate refugia; reduce barriers to plant migration; and use pollinator-friendly plant species in restoration and revegetation projects.

Recommendations:

- Discuss actions to improve adaptation to changing environmental conditions, such as water operations that improve resilience and decrease the vulnerability of specific species under projected climate conditions in the short and longer term.
- Discuss reasonably foreseeable effects that changes in the climate may have on the proposed project, and what impacts the proposed project will have on climate change consequences. These considerations could help inform the development of measures to improve the resilience of the project.

Environmental Justice

The EPA's goal is to provide an environment where all people enjoy the same degree of protection from environmental and health hazards and equal access to the decision-making process to maintain a healthy environment in which to live, learn, and work. This goal is reflected through our review of NEPA analyses under Section 309 of the Clean Air Act. In addition, Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (February 16, 1994), directs federal agencies to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of their actions on minority and low-income populations. It further directs agencies to develop a strategy for implementing environmental justice and providing minority and low-income communities access to public information and public participation.

Recommendations:

- Include an environmental justice section that addresses potential adverse environmental effects of the proposed project on these communities and outline measures to mitigate for impacts.

As part of an environmental justice analysis, use EPA's EJScreen and/or the most recent American Community Survey from the U.S. Census Bureau to determine the presence of minority and low-income populations. However, it is important to note that minority and low-income can be measured in various ways.

After Reclamation has determined if minority and low-income populations exist in the project area, we recommend that the Draft EIS discuss whether these communities would be potentially affected by individual or cumulative actions of the proposed action. Even though project impacts may be the same for all populations within the proposed project area, please note that social determinants of health,² such as language and literacy skills, education, job opportunities, and income, may result in minority and low-income populations bearing a disproportionate burden of environmental health risk from project impacts. These factors of risk should be accounted for in the Draft EIS and considered in the analysis for determining if any alternative would cause any disproportionate adverse impacts.

If it is determined that minority and low-income populations may be disproportionately impacted, describe in the Draft EIS the measures taken by Reclamation to fully analyze the environmental effects of the action on minority communities and low-income populations and identify potential mitigation measures. Mitigation measures could include ensuring public notification procedures occur for all project area proposed actions, and media releases to inform locals and visitors about the expected impacts of the experimental flows.

Recommendations:

- Identify low-income and minority populations within the project area using block groups and clearly disclose potential impacts to these populations including disparate health effects (including risks).
- Discloses the opportunities Reclamation provided for early and meaningful involvement and document early outreach as recommended by E.O. 14096 ((C)(ix)(C)).
- Disclose any measures to minimize or mitigate for health impacts.
- Identify how Reclamation would notify the public of upcoming experimental flows, and translate documents where areas of linguistically isolated populations exist. If needed, EJScreen's output clearly identifies linguistically isolated populations and languages present.

Consultation with Tribal Governments

It is important that formal government-to-government consultation take place early in the scoping phase of the project to ensure that all issues are adequately addressed in the Draft EIS. The principles for interactions with tribal governments are outlined in the presidential "Memorandum on Government-to Government Relations with Native American Tribal Governments" (April 29, 1994) and Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (November 6, 2000).

As resources, we recommend the document *Tribal Consultation: Best Practices in Historic Preservation*,³ published by the National Association of Tribal Historic Preservation Officers and *Traditional Knowledge and the Section 106 Process: Information for Federal Agencies and Other Participants* document.⁴ Please note that the Advisory Council on Historic Preservation (ACHP) considers that "[c]onsultation is more than simply

² Centers for Disease Prevention and Control. September 2022. Social Determinants of Health. Available at <https://health.gov/healthypeople/priority-areas/social-determinants-health>.

³ National Association of Tribal Historic Preservation Officers. May 2005. *Tribal Consultation: Best Practices in Historic Preservation*. Available at <http://npshistory.com/publications/preservation/tribal-consultation.pdf>.

⁴ Advisory Council on Historic Preservation. May 2021. *Traditional Knowledge and the Section 106 Process: Information for Federal Agencies and Other Participants*. Available at <https://www.achp.gov/sites/default/files/2021-05/TraditionalKnowledgePaper5-3-21.pdf>.

notifying an Indian tribe about a planned undertaking.”⁵ While consultation should begin with a formal letter, the ACHP advises that “[f]ace-to-face meetings or on-site visits may be the most practical way to conduct consultation.”

Recommendations:

- Summarize the results of tribal consultation, identify the main concerns expressed by tribes, and clearly discuss how those concerns were addressed.

National Historic Preservation Act

Consultation for tribal cultural resources is required under Section 106 of the National Historic Preservation Act (NHPA). Historic properties under NHPA are properties that are included in the National Register of Historic Places (NRHP) or that meet the criteria for the NRHP. Section 106 of NHPA requires a federal agency, upon determining that activities under its control could affect historic properties, to consult with the appropriate State Historic Preservation Office/Tribal Historic Preservation Office. Under NEPA, any impacts to tribal, cultural, or other treaty resources must be disclosed in the Draft EIS. Section 106 of the NHPA requires that federal agencies consider the effects of their actions on cultural resources, following the regulation at 36 CFR Part 800.

Recommendations:

- Discuss how Reclamation would avoid or minimize adverse effects on the physical integrity, accessibility, or use of cultural resources or archaeological sites, including traditional cultural properties, throughout the project area.
- Clearly discuss mitigation measures for archaeological sites and TCPs.
- Append any Memoranda of Agreements to the Draft EIS, after redacting specific information about these sites that is sensitive and protected under Section 304 of the NHPA.
- Provide a summary of all coordination with Tribes and with the State and Tribal Historic Preservation Offices, including identification of NRHP eligible sites and development of a Cultural Resource Management Plan.

Executive Order 13007

Executive Order 13007, “Indian Sacred Sites” (May 24, 1996), requires federal land managing agencies to accommodate access to, and ceremonial use of, Indian sacred sites by Indian religious practitioners, and to avoid adversely affecting the physical integrity, accessibility, or use of sacred sites.

Recommendations:

- Address the existence of Indian sacred sites in the project area that may be considered spiritual sites by regional tribal nations.
- Discuss how Reclamation would ensure that the proposed action would avoid or mitigate for the impacts to the physical integrity, accessibility, or use of sacred sites.
- Consult with Tribes located outside the direct impact area the plan area that may also have religiously significant ties to lands within the plan area.

⁵ Advisory Council on Historic Preservation. June 2021. Consultation with Indian Tribes in the Section 106 Review Process: The Handbook. Available at <https://www.achp.gov/sites/default/files/2021-06/ConsultationwithIndianTribesHandbook6-11-21Final.pdf>.