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Officially known as the Zuni Tribe of the Zuni Indian Reservation

02 November 2023

Bureau of Reclamation
Attention: LTEMP SEIS Project Manager
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Sent by Email only – LTEMPSEIS@usbr.gov

RE: Pueblo of Zuni Comments on the 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

The Pueblo of Zuni through this scoping response reiterates our expressed concerns regarding the taking of aquatic life that exists within this very sacred land/waterscape: the Colorado River in Grand Canyon. In 2009, the Pueblo of Zuni conveyed grave concerns on the intentional taking of life associated with mechanical removal of rainbow trout in a letter from Zuni Governor Cooyate to Mr. Larry Walkoviak, Regional Director of the Bureau of Reclamation. In 2010, the Zuni Tribal Council passed Tribal Council Resolution M70-2010-C086 formalizing the Zuni Government's opposition to lethal management actions on aquatic life in the Grand Canyon. The full language of this resolution was formally and directly provided to Reclamation. In this resolution the Zuni Tribal Council formally declared:

the government of the United States of America, especially the Department of the Interior, and all agencies thereof, has a trust responsibility to manage Zuni cultural and natural resources, including tangible and intangible cultural resources valued by the Zuni people wherever such resources may occur, in a manner responsive to the interests of the Zuni Tribe and its members; and the cultural values and beliefs of the Zuni people are intimately related to its ancestral lands, to natural places, and to the plants, animals, and spiritual qualities of such land and places.

The Zuni Tribal Council Resolution passed in 2010 is based, in part, by the fact that every Zuni government leader is asked to take an Oath that in part reads:

Into your care we entrust our land and our people.... The stranger who comes into our land will become as one of your people, regardless of race, color or creed, and you will give unto them the same protection and rights as you would your own. You will cherish and protect all that contains life; from the lowliest crawling creature to the human [Constitution of The Zuni Tribe, Article XVI – Oath of Office].

Zuni people know that all aquatic beings contain life, and thus are cherished and require protection, but *also that they are Zuni relatives and children themselves*. This is taught in Zuni traditional history by *chimiky'ana'kowa*, translating to "When newness was made," stories which convey events of history from the time of Zuni emergence from the fourth womb of *'awitelin tsitta* into this world at *chimik'yana'kya dey'a*, in the Grand Canyon.

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Reclamation, National Park Service, U.S. Fish and Wildlife Service, Grand Canyon Monitoring and Research Center, all characterize non-native aquatic life in Glen and Grand Canyons as “threats,” “pests,” “invasive,” “clear and present dangers,” or as part of an “invasion”—as these agencies persistently do—are highly dispossessing acts that wholly dismiss Zuni relational life/ways, traditional histories, and sacred geographies. Such militaristic depictions are used to justify violent life-taking practices by conveying the notion that Zuni kin are out of place and unworthy of existence—or less worthy than other existences—rendering a life no longer of value or even part of nature; “[i]t isn’t wildlife.... [It instead] becomes an evil influence that must be eliminated” (Brookshire, 2022:52).

Such valuations serve to naturalize and universalize colonial timelines and the bad habits of the Western mind to create artificial divisions of nature then mistake these divisional artifices for Reality. Zuni has consistently and persistently made objections to any and all forms of lethal management of aquatic life (including flow options) to the Department of the Interior agencies.

The various dam operational alternatives identified in this Notice of Intent to prepare a Supplemental Environmental Impact Statement are understood through the Zuni concept “*Deshamik’ya*,” which is imagining or acting out an undesirable behavior that results in negative effects to a family or community of people. In this instance, purposefully altering dam operations as a method to prevent or disrupt the continuing of life and which could result in mortality can be understood through the translation of the word karma, with the harmful effects and impacts being directed on and toward the Zuni community. These adverse effects and impacts will exponentially contribute to greater vulnerability and precariousness, which Indigenous people experience at greater frequency and intensity than do the industrial nations. Consideration and analysis of these effects and impacts are frequently lacking from an equitable and meaningful environmental justice analysis and must be included lest this intended supplemental EIS and NEPA process itself serve as part of systemic social and environmental injustice and continually imposed barriers and obstacles for equity. An additional consideration that is need of attention is that any increase in power rates due to the need for purchasing contracted power as a result of changes to operations in Glen Canyon dam that the low-income Zuni community members will have to pay will compound and intensify the emotional and psychological trauma experienced.

Throughout the supplemental Environmental Impact Statement analysis, Reclamation must give due consideration to how the National Environmental Policy Act (NEPA) involves analyses and assessments of direct, indirect, and cumulative impacts (40 CFR 1508.8) to resources of traditional use and importance to Native American tribes. It must be acknowledged and internalized by Reclamation and its cooperating agencies, that all lands and waters within Glen Canyon National Recreation Area (GCNRA) and the Grand Canyon National Park (GCNP) are lands and waters of the First Peoples of the region and intimate and indelible parts of Native human environments. Reclamation must give attentive consideration to the fact that natural resources of the GCNRA and GCNP are cultural resources for affiliated Native peoples, and that 40 CFR 1508.14 defines the “Human Environment” broadly, stipulating that the:

Human environment shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment.

Reclamation must also consider that its legal NEPA responsibilities include identifying and assessing direct, indirect, and cumulative effects on historic and cultural resources (40 CFR 1502.16(g)), and that considerations must be given to how the NHPA 106 Process will inform NEPA review (40 CFR 1508.27(b)(8)). Moreover, Reclamation must further consider how it has commonly defined adverse effects too narrowly—in both space and time—to account for the large spectrum of adverse effects on Native human environments and historic and cultural

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resources. As noted by the Council on Environmental Quality (CEQ) within the Executive Office of the President guidance on adverse effects:

Analyzing cumulative effects is more challenging [than direct or indirect adverse effects], primarily because of the difficulty of defining the geographic (spatial) and time (temporal) boundaries. For example, if the boundaries are defined too broadly, the analysis becomes unwieldy; if they are defined too narrowly, significant issues may be missed, and decision makers will be incompletely informed about the consequences of their actions [CEQ 1997:v].

Reclamation must consider how its own self-stated institutional roots and historical purpose both pinpoint its active and ongoing role and cumulative contribution in advancing adverse effects on Native tribes and communities of the Colorado Plateau through dispossession, displacement, alienation, containment, and erasure from vast swaths of ancestral territories and traditional cultural land/waterscapes by privileging Western notions of natural resource exploitation and management and the associated limited notions of “development” through valuations and processes of “resource colonialism,” or :

the identification, appropriation, extraction, and processing, by dominant societies, of select natural resources belonging to other, subordinated peoples – [this colonial practice] quickly moved, in the Americas, from the gold and silver, which drew early conquistadors, to encompass plants and animals of numerous and varied sorts. Not only did European naturalists collect “the stuff of nature,” ... but they also “lay their own peculiar grid of reason over nature so that nomenclatures and taxonomies often served as “tools of empire” [Whitt 2009:19].

Reclamation must additionally consider in this context how it and other U.S. agencies repeatedly fail to fulfill environmental justice and equity obligations, and how the claim of “[n]eutrality, which is important to government agencies, means ignoring racial inequalities” (Harrison 2019:92). These Reclamation considerations must therefore also include the many ways in which perpetuations of structural violence have historically and geographically occurred as a result of Federal agency staff bias and negligence through “environmental regulatory protections [that] have never been evenly applied” and how “[w]orking-class, racially marginalized, and Native American communities have always been disproportionately exposed to deadly environmental hazards relative to wealthier, white communities” (Harrison 2019:xi).

Reclamation must directly consider how past allocation and use of Colorado River waters have intentionally excluded sovereign tribal nations that have occurred to date throughout the West and Southwest regions of the United States are part of geographies and land/waterscapes of sacrifice with enduring ideological, cultural, social, and material impositions that rely on and co-constitute continually accumulating Indigenous environmental *in*justices of damage, despair, and destruction. Reclamation must consider how these processes of *in*justice—over space and time—have been built on and persevere through various forms of settler colonial “racism, militarism, and economic imperialism [that] have combined to marginalize a people and a land that many within government or industry, consciously or not, regard as expendable” (Kuletz 1998:6), and how “settler-colonization is at base a winner-take-all project whose dominant feature is not exploitation but replacement. The logic of this project, a sustained institutional tendency to eliminate the Indigenous population, informs a range of historical practices that might otherwise appear distinct – invasion is a structure not an [isolated] event (Wolfe 1999:163). Reclamation must further consider in these precise contexts of the logics and cumulative adverse effects of settler colonialism its agency’s own role in promoting Anglo and Euro American settlement of the Western United States and the aggregating environmental and social *in*justices this has caused and continues to cause.

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In order to ensure significant environmental justice, human environment, historic and cultural resource, and direct, indirect, and cumulative adverse effect issues are not missed during Reclamation's compliance with *the full spectrum* of obligations and responsibilities under NEPA review for the proposed supplemental EIS process, the study area and scope to assess adverse effects on Native human environments and historic and cultural resources within, intersecting, enveloping, or otherwise connected with the Colorado River and Glen Canyon Dam require attention and definition through lived and living Native deep time and deep space practices and understandings of space-time—deep time being a simultaneous way of “looking back far into Earth's history, and looking forward far into the future” (McGrath, 2020), and deep space referring to both “the *production* of space intensified and writ large,” and that which “identifies the immediacy, materiality, and power of ... uneven geographic development as it is perpetuated by, and lived according to, unjust social systems” (McKittrick, 2006:15).

Reclamation must consider how these facts of necessary inclusiveness, analyses, and special expertise are underscored by recent White House guidance on Indigenous Knowledge (IK), which acknowledges that IK can more “accurately capture the impact[s] ... on culturally or ecologically significant land[s]” (Prabhakar and Mallory 2022:19), and, as such, “[a]gencies should also include Indigenous Knowledge as an aspect of best available science” (Prabhakar and Mallory 2022:19). Regarding IK inclusion in NEPA processes specifically, White House IK guidance states:

The National Environmental Policy Act (NEPA) requires Agencies to analyze, consider, and disclose the effects of major Federal actions on the human environment. CEQ's implementing regulations also direct Agencies to “make use of any reliable data sources” in carrying out their responsibilities under NEPA. Through the NEPA process, Agencies often engage with affected communities to inform the assessment of environmental effects. Agencies should recognize that Tribes and Indigenous Peoples hold relevant information and perspectives regarding the environment, and Indigenous Knowledge can inform Agencies' environmental analysis. Tribes and Indigenous communities may have special expertise with respect to environmental and community impacts, informed by Indigenous Knowledge. Tribes can play a key role in the NEPA process as a cooperating or participating agency. Common circumstances in which Indigenous Knowledge may arise include environmental reviews of resource management plans, forest plans, energy resource lease sales, and other Federal authorizations regarding the use of public lands [Prabhakar and Mallory 2022:6].

Reclamation seemingly recognizes that “[t]he entire landscape/waterscape of the Colorado River and the Colorado Plateau is culturally significant to Arizona, New Mexico, Utah and Colorado tribal nations and is still used for tribal purposes today. Yet, Reclamation also has a legacy of privileging, to the exclusion of all other forms of knowledge production, Western science methodologies and ideologies, as it repeatedly implements with respect to environmental compliance that disenfranchises and dismisses Zuni and presumably other Tribal forms of knowledge production.

The Pueblo of Zuni directs your attention to a July 01, 2021 letter to the Biden Harris administration from the Zuni Governor regarding increasing equity in federal programs in response to E.O. 13985:

[N]egligence in [NEPA and NHPA processes and guidance] consideration and recognition is indelibly entangled in racist perspectives and practices that structurally underpinned—and continue to largely guide and dictate—the development and formation of historic preservation values and approaches in the United States ... [:] which are continually reproduced in dominant cultural resource management practices today.... [And] structural racism against ... [Native American Tribes] is reinforced and reproduced in NHPA and NEPA laws and practices when narrow disciplinary archaeological interpretations and disciplinary

perspectives and values are privileged in the identification and evaluations of ancestral/archaeological sites (resources) and effects/impacts to their integrity [Panteah 2021:9].

Attentive consideration must be given to the fact that, while coordination and substitution processes exist for NHPA and Section 106 review (see 36 CFR 800.8 *et seq.* and CEQ and ACHP 2013), neither process relieves Reclamation of its responsibilities under each act. It is vital for Reclamation to consider that NEPA is much broader than NHPA insofar that assessments of and considerations for impacts to or effects on historic/cultural/heritage properties and resources (such as culturally important places, land/waterscapes, and any contributing elements and resources) are not limited to those eligible or potentially eligible for listing in the NRHP. Reclamation must also give consideration to how its NEPA responsibilities intersect and include environmental justice charges under Executive Orders (EOs) 12898 and 14096, sacred site obligations under EO 13007, and responsibilities for identifying and building inclusive and systemic changes to advance equity for underserved communities—including in no small ways Native communities—under EOs 13985 and 14091. In fulfillment of these EOs and NEPA obligations, Reclamation must consider qualitative and quantitative differences in Native cosmologies, worldviews, and associated human-environment, people-place, and society-space relationships, including how:

Environmental justice issues encompass a broad range of impacts covered by NEPA, including impacts on the natural or physical environment and interrelated social, cultural, and economic effects. In Section 106 consultations, representatives of affected communities may also raise environmental justice issues. Such issues which can be addressed through historic preservation considerations may contribute to the agency's overall environmental justice compliance [CEQ and ACHP 2013:16].

Reclamation must consider how NEPA presents general standards for data and information used in Environmental Impact Statements (EISs). Reclamation must attentively address and consider how 40 CFR 1500.1(b) and 40 CFR 1502.24 respectively mandate that decisions be made using “high quality” information and “professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements.” To achieve both high quality and integrity Reclamation must consider how it is necessary that these standards always be coupled with the stipulations at 40 CFR 1502.6 “Interdisciplinary preparation,” which state that:

Environmental impact statements shall be prepared using an inter-disciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts (section 102(2)(A) of the Act). The disciplines of the preparers shall be appropriate to the scope and issues identified in the scoping process (§ 1501.7).

It is vital that Reclamation consider as part of the sequential steps of NEPA review, *these standards and appropriate disciplinary approaches exist to help fulfill the overall purposes of the NEPA process: “to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment”* (40 CFR 1500.1(c)).

Reclamation must also consider how these NEPA standards and approaches—along with recognition of Tribal sovereignty and fiduciary trust responsibilities—necessitate inclusionary spaces and equal opportunities in every step of NEPA review for Tribal knowledge sovereignty and subject matter expertise for best available sciences. Inextricably tied to cultural, social, and political sovereignty and associated relationships of ecological health and wellbeing (see Norgaard 2014:2), knowledge sovereignty can be understood “[f]rom a local indigenous knowledge perspective” as:

the freedom to recapture and utilise indigenous knowledge as a peer to [mainstream Western] scientific knowledge, to move it from ‘invisible to visible[,] ... to challenge the fundamental dichotomies of

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[dominant Western] scientific thought such as object/subject, rational/irrational and White/Black.... So, to be knowledge-sovereign is to have the ability to choose one's own knowledge system, and to be able to use it freely to critique dissimilar constructions of knowledge without being subsumed by them [Fre 2018:16].

Reclamation must consider that in any effort to achieve good faith and reasonable NEPA compliance, information and data informing NEPA review must be gathered, analyzed, and considered by and through Native knowledge and science systems, values and uses, and perspectives and meanings (i.e., ontologies and epistemologies) in *at least* in equal standing with mainstream Western scientific methodologies and findings (Panteah 2021; Prabhakar and Mallory 2022). Reclamation must consider how appropriate attention to these concerns by trained, qualified, and Tribally trusted personnel are fundamentally necessary to collectively fulfill and comply with, both reasonably and in good faith, the overall purpose and procedures of NEPA generally and for this proposed supplemental EIS specifically.



Arden Kucate (Nov 1, 2023 16:45 MDT)

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Final Audit Report

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