



September 8, 2020

Mr. Rick Baxter, Project Manager
Bureau of Reclamation
302 East Lakeview Parkway
Provo, UT 84606

Re: Comments Regarding the Proposed Lake Powell Pipeline Project DEIS with Associated Agency/Docket Number: RR04963000, XXXR0680R1, RR.17549661.1000000

Attn Mr. Baxter:

On behalf of the National Parks Conservation Association (NPCA), I write to submit comments on the Draft Environmental Impact Statement (DEIS) of the proposed Lake Powell Pipeline Project (Project). Since 1919, the nonpartisan NPCA has been the leading voice in safeguarding our national parks, working throughout our country including from offices in Colorado, Utah, Nevada, Arizona and California. NPCA and our nearly 1.4 million members and supporters work together to protect and preserve our nation's natural, historic, and cultural heritage for future generations. This includes national parks and public lands surrounding and dependent on the Colorado River.

NPCA has worked throughout the West to advocate for sustainable water use, including promoting responsible water supply development projects and practices while opposing efforts, such as the proposed Cadiz and Las Vegas Pipeline projects, that would only exacerbate the water supply challenges facing our communities and public lands.

We urge the Bureau of Reclamation (BOR) to withdraw the Preferred Alternative that advances the Project as it lacks legal, policy and scientific justification while simultaneously failing to pass the commonsense test of ensuring current and future generations, and protected lands, have access to reliable water supply.

The Project lacks the legal authority to proceed, and therefore should be suspended indefinitely or abandoned.

For example, the Project needs congressional approval but does not have it. The Project will divert Upper Basin water to the Lower Basin in Washington County. An Upper-to-Lower Basin transfer requires congressional approval per the 1922 Colorado River Compact – a precedent that has been upheld and validated by Congress and the U.S. Supreme Court. Congress has yet to consider or approve the Project's inter-basin transfer. Considering the legislative requirement, the Project should be suspended indefinitely or abandoned because it is unclear if Congress will ever support the Project. A BOR approval

of the Project poses an undeniable threat of litigation that will cost taxpayers and ratepayers throughout the West.

Additionally, the Project needs the consent of Lower Basin states but does not have it. The 1922 Colorado River Compact requires an Upper-to-Lower-Basin transfer of this kind to receive approval from the seven Compact states. For example, Nevada has not consented to the Project. Considering the Project is without the required approval from Upper and Lower Basin states, the Project should be suspended indefinitely or abandoned because it is unclear if Compact states will ever support the Project. Moving forward with the Project poses a threat of litigation that will ultimately cost taxpayers and ratepayers.

The Bureau failed to take a hard look:

Under the law, 43 CFR Section 46.420, NEPA requires federal agencies develop its own purpose and need, not simply adopt the applicant's stated purpose and need. Additionally, 40 CFR Section 1502.14 requires BOR to analyze a reasonable range of alternatives. Yet neither has happened in this instance. The "No Lake Powell Pipeline Alternative" was inappropriately eliminated from analysis and did not receive the proper consideration as required by federal law. The BOR's only explanation for that choice was that Washington County Water Conservancy District (WCWCD) didn't have the authority to implement conservation techniques like reverse osmosis or landscape conservation. This highlights a great irony and contradictory logic since the Project lacks authority to move ahead under current federal law.

One line on page 15 of the DEIS specifically summarizes how BOR failed to consider the public interest (43 CFR Section 46.420 (2)a) as it relates to the Colorado River, its tributaries, Lake Powell, and Lake Mead along with the plant, animal and human communities that depend on those sources of water and storage:

"The DEIS has been prepared in response to the Proposed [Lake Powell Pipeline] Project and does not attempt to compel Washington County residents to modify, change, or curtail their current culture, lifestyle or social expectations."

The "Hard Look" and various alternatives were not at all considered in the DEIS. NEPA requires exploring options that may be outside the status quo. Again, this dereliction of duty will ultimately invite litigation, costing ratepayers and taxpayers.

The DEIS must be updated to include a water conservation alternative:

The DEIS failed to include a conservation alternative, preventing the public from being able to consider all the options available to them. Considering the dearth of available water in the Colorado River and the likelihood of Project curtailments, it is in the best interest of Washington County water users to have a variety of options. Washington County residents consume — per capita — about double the water of Southern Nevada, Phoenix, Tucson and other desert communities. Analysis should include how Washington County communities can meet their needs by implementing building codes, landscaping programs and other incentives to limit consumptive use of water while also considering the implementation of options, such as modern recycling facilities, agricultural buyouts and the availability/cost of direct-use water supplies. Without full consideration of viable conservation alternatives, which have been presented to the BOR, the DEIS has not done its due diligence and fails to consider and understand the scope and implications of the Project.

Indigenous communities must be respected:

The Federal Energy Regulatory Commission studies accompanying the DEIS made it clear that native people will lose invaluable resources attached to their spiritual and cultural customs. However, BOR failed to undertake a thoughtful and considerable examination of its own on the impacts the Project will have on native communities. The BOR even admitted in the Environmental Justice section of the DEIS that they had no mitigation measures in place to prevent the destruction of traditional cultural property. For these reasons alone, this Project should not move forward.

Additionally, the proposed options for Project will need a Right of Way to cross the traditional cultural properties and current lands of the Kaibab Paiute Nation. The Project requires a resolution approved by the tribal council. To our knowledge, that milestone has not yet been achieved.

The DEIS failed to adequately analyze Lake Mead:

Lake Mead is the older sibling of Lake Powell and the most significant water storage system in the Western U.S. The management of Lake Mead is inextricably linked to Lake Powell and vice versa. The public lost a considerable opportunity to vet the far-reaching impacts of the project because there was no meaningful examination of the relationship between Lakes Powell and Mead.

Analysis for Project must include the proposed impacts on Lake Mead's levels, water quality and ability to generate electricity. Further analysis must consider the Project's likely effects on municipal water supplies, riparian ecosystems and agriculture throughout the Lower Basin – as well as in tribal communities and Mexico.

The analysis of electricity production should also include the potential impacts on Lower Basin States with Renewable Energy Portfolio Standards that rely on hydro power from Hoover Dam.

The DEIS failed to include an adequate quagga mussel analysis for Lake Mead.

The BOR inadequately examined the effect of quagga mussel infestation resulting in downstream water sources from Sand Hollow Reservoir. The public deserves a better understanding of the impacts related to quagga mussels. The public deserves a plan of action for downstream sources beyond what was included in Appendix C-12.

Future analysis must include the impacts of greater quagga mussel infestation at Lake Mead from the proposed project, the cost of the increased quagga mussel infestation to Southern Nevada and mitigation measures for Southern Nevada as well as the effect of quagga mussels on electricity production at Lake Mead.

The analysis must include the effects of increased quagga mussel infestation on water quality, benthic invertebrates, native fish species and amphibians that live in springs and tributaries of Lake Mead.

Furthermore, the analysis should include proposed impacts on recreation such as boating and fishing.

The DEIS did not consider germane climate science and analysis:

The DEIS failed to consider that between 1906 and 2018 the Colorado River lost 3 million acre-feet/year in flows. By the end of the 21st Century, the Colorado River Basin is expected to lose another 3 million

acre-feet/year. Future analysis of the Project must quantify how warming temperatures, reduced precipitation, early snowmelt runoff, decreased soil moisture and other factors attributed to a changing climate will affect the flows of the Colorado River, the junior rights associated with Lake Powell, and the likelihood of curtailment of the Project's water. The DEIS underestimates the impacts that climate change has on Colorado River flows and did not adequately consider climate-based impacts.

Despite an overwhelming amount of data in the public record, the DEIS failed to consider that there is not water available for LPP:

By excluding the data demonstrating that there are more consumptive users than there is available water, the DEIS failed to disclose data and proposed impacts regarding one of the most important water supplies in the Western U.S. The Colorado River has lost more than 2 million acre-feet/year since the signing of the Colorado River Compact in 1922. Consumptive use is currently exceeding average annual flows. BOR stress test data show that substantial losses within the Colorado River Basin are likely to continue in the coming years. The DEIS failed to include an analysis on these facts, which is a massive shortcoming in the review process and ignores the current realities of the Colorado River system. This oversight means that there is also no information about the likelihood that the Project will be curtailed, what impacts there would be with curtailed supply, nor was there any information on Lake Powell's effect on the future management of the river once the 2007 Interim Guidelines and the 2019 Drought Contingency Plan expire. Without these critical pieces of information, it is difficult to determine the feasibility of the Project.

Further analysis must include future flow projections that use the Colorado River Simulation System to project a worst-case scenario.

CONCLUSION

In summary, NPCA finds that the DEIS lacks consideration of important data, analysis and alternatives, and disclosure of environmental impacts. We urge the BOR to update the DEIS to reflect these necessary considerations, which we believe will demonstrate that the Project is indefensible and wholly unsustainable.

If you have any questions or would like to discuss, please contact me at ndesai@npca.org.

Sincerely,

A handwritten signature in cursive script that reads "Neal Desai".

Neal Desai
Senior Program Director, Pacific Region
National Parks Conservation Association