



United States Department of the Interior

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IN REPLY REFER TO:

W18 (GRCA 8211)

JAN 15 2009

To: Intermountain Regional Director, Mike Snyder

From: Grand Canyon National Park, Superintendent Steve Martin

Subject: Government's Response to GCT Lawsuit

Mike, I thought I would outline some concerns that we have with the WASO response to the Trust lawsuit. A number of the items in the proposed response are contrary to NPS policy, and could compromise NPS future ability to respond to threats inside and outside of National Parks. Hopefully it is still at a point that we can have some input. I also think that some of these points here are key to our transition briefing for the new administration and the importance of having the NPS involved in these discussions.

In our discussions with WASO during the preparation of the EA for experiments at Grand Canyon, we presented a number of concerns about the EA, including the:

- lack of scientific veracity in the EA,
- lack of consideration of other alternatives,
- lack of inclusion of NPS involvement,
- lack of adequate public review
- lack of relevant standards and desired future conditions, and
- failure to address NPS concerns that actions under the EA's five-year plan would impair the resources of Grand Canyon.

DOI never addressed our determination that the five-year experimental plan would cause impairment of park resources. Our concerns over the EA, the experimental plan, and impairment of Grand Canyon resources still remain and have not been addressed in subsequent actions. The DOI brief implies that NPS was in full concurrence with the action, but this is not true. In the meeting with Cason and Walkoviak, we agreed to the 2008 HFE, but not as part of a flawed five-year experimental plan. Mike your and my recent conversation with Lyn Scarlett confirmed that she never intended this to be a five year study, and our concerns over the EA and the five year plan were still valid. In that meeting, we asked that our concerns over the EA's experimental plan be recognized and addressed, but, as you are aware, this did not happen. The brief alludes to complete agreement by DOI political level to a BOR brief (NPS not consulted) as interagency concurrence of the action and EA, this interagency agreement should have included the responsible manager as outlined in the NPS policies. (Superintendent or Regional Director).

Our concerns over impairment, based on the standard set in the GCPA, Organic Act, Redwoods Act, GRCA legislation and the NPS Management Policies remain.

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It is worth noting that current research, current publications, and current feedback from scientists and agency representatives within the AMP continue to provide support for NPS concerns that the EA's five-year experiment will significantly impair Grand Canyon resources.

The government's brief as presented continues to misinterpret key scientific findings related to the humpback chub, status of downstream resources in Grand Canyon, and the need for the Secretary to acknowledge NPS authorities and responsibilities to protect resources under NPS administration. NPSMP sections 1.4.2, 1.4.4, 1.4.5, 1.4.7, 1.6, 4.1.5 and definitions of "Manager" and "Impairment" (page 158 of the NPSMP), outline our authorities and responsibilities. Yet none of these policy directions were followed by DOI in their decision making. These key provisions in the NPSMP have not been adhered to and cause great concern for our involvement in the undertaking of our management responsibilities.

Significant misinterpretations of our involvement, the scientific findings, the Grand Canyon Protection Act, Park Goals, and future program oversight are found throughout the document. Although DOI is trying to make this an issue of "allocation, appropriation, development and exportation of the waters of the Colorado River," none of our proposals and none of the actions needed to "mitigate impacts to and improve the resources of Glen Canyon and Grand Canyon" (GCPA) will affect the water resources of the Colorado River Basin (see page 5).

In short, this is perhaps the worst EA I have seen for an action of this importance. The EA's lack of alternatives, the mistreatment and disregard of science, the lack of public involvement, the signing of a FONSI amidst the controversy and unresolved issues—all of these actions are in conflict with standard NPS management practices and constitute poor practice for government in general. In addition, the isolation of this experiment from the general practices of joint Interior management produced a scientifically questionable action for HBC and ignored the other requirements of the existing EIS and NPS specific legislation.

Mike, you have done a great job in trying to assemble a DOI team to begin to address these issues. The best next step would be for DOI to step back from this EA and build a credible document, contributed to and supported by all DOI agencies, and informed by key stakeholders. Our goal is to implement the AMP based on the best science law and policy and work as a team member in resolving these key issues.

If this document is already final then it is too bad that once again we have not been included and have been misrepresented in a program very important to the National Park Service.

We have available a complete breakdown of our concerns and specific comments on the brief that I can share with you when we are together next.

