

LIVING RIVERS

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July 20, 2018

Mr. Sean Heath
Phoenix Area Office, Bureau of Reclamation
ATTN: NM Unit EIS
6150 West Thunderbird Road, Glendale, Arizona 85306

Via eMail: NMUnitEIS@empfi.com

Re: New Mexico Unit EIS (NM Unit EIS)

Dear Mr. Heath,

Thank you for this opportunity to provide scoping comments for the development of an Environmental Impact Statement (EIS) regarding the New Mexico Unit of the Central Arizona Project; Catron, Grant, and Hidalgo Counties, New Mexico.

Introduction

The following are comments from Living Rivers, Colorado Riverkeeper and the Center for Biological Diversity. Living Rivers & Colorado Riverkeeper is a nonprofit organization based in Moab, Utah; we are members of the international Waterkeeper Alliance. The Center for Biological Diversity is a nonprofit organization based in Tucson, Arizona. Our missions include protecting and restoring the biological integrity of the Colorado River basin.

Proposed Action

The Colorado River Basin Project Act of 1968 authorizes the Secretary of the Interior to contract with water users in New Mexico for water from the Gila River, its tributaries and underground water sources. New Mexico may divert, in any period of 10 consecutive years, up to an annual average of 14,000 acre- feet, including a maximum of 4,000 acre-feet per year that may be diverted from the San Francisco River. A variety of laws generally require that additional CAP water be delivered to the downstream users in Arizona to replace diversions in New Mexico.

The proposed NM Unit is the infrastructure that would divert Gila River water in New Mexico for this purpose and is defined in the New Mexico Unit Agreement, which the

Secretary executed on November 23, 2015; the Secretary's final decision is expected by the end of 2019.

Water users of the Gila River are not inclusive to regional objectives

The Gila River community of water users do not provide water to satisfy the Mexican Treaty obligation. This community is not obligated to intentionally create surplus to prevent system shortages. They are not obligated to financially support the programs of the greater Colorado River Basin such as the control of salinity or endangered species. The NM Unit could not happen without the the support of the greater watershed community, yet it provides nothing in return. This is a project of exclusiveness.

The proposed project is inconsistent with known water budgets that predict future shortages in the Colorado River Basin

- The US Senate published a water budget after the water treaty with Mexico was negotiated in 1944. Former deputy secretary of Interior, Northcutt Ely, at the 1946 Colorado River Water Users Association meeting in Salt Lake City, predicted a future of shortages:

"No sound planning can be done for new projects until the water budget is balanced again in some way."¹

- The water budget report to the U.S. Congress by Raymond A. Hill said the following in 1953:

"All of the 7,500,000 acre-feet of water per annum apportioned to the Upper Basin by the Colorado River Compact may not actually be available for use because of the requirement that 75 million acre-feet be delivered at Lee Ferry during each consecutive 10-year period."²

- During federal committee hearings in 1954, on the matter of unsettled Indian water rights, which exist to this very day, Northcutt Ely said the following:

"The existence of the Indian claims, and uncertainty as to their accounting, raises serious questions as to the water supply for the projects in both the upper and lower basins."³

Light on the Mexican Treaty, 1946. <http://www.riversimulator.org/Resources/LawOfTheRiver/LightMexicanTreatyElyCRWUA1946.pdf>

² Depletion of Surface Water Supplies, 1953. <http://www.riversimulator.org/Resources/Hydrology/HillReport1953.pdf>

³ Congressional testimony, July 2, 1954. <http://www.riversimulator.org/Resources/Testimony/ColoradoRiverBoard1954ocr.pdf>

- R. J. Tipton, in 1965, said the following in his water budget report for the seven basin states:

“As the Upper Basin develops there will arrive a time when its water will no longer be available for further uses on the lower river. The question is when will that time arrive. To forecast this, studies have been made using various assumed rates of depletion in the Upper Basin and various assumed rates of releases from Lake Powell.” All of the studies indicate that substantial shortages, amounting to more than 1.0 maf per year before the end of the present century...”⁴

- The 1979 report from the Comptroller General of the United States declared the following:

“Soon after the year 2000, there will not be enough water to serve the region's booming population, sustain its rapid industrial growth, and support its fertile agricultural lands. Even before 2000, the water is likely to become too salty for many uses.”⁵

- Scripps Institute produced a very intuitive water budget for the future in 2008:

“A water budget analysis shows that under current conditions there is a 10% chance that live storage in Lakes Mead and Powell will be gone by about 2013 and a 50% chance that it will be gone by 2021 if no changes in water allocation from the Colorado River system are made. This startling result is driven by climate change associated with global warming, the effects of natural climate variability, and the current operating status of the reservoir system. Minimum power pool levels in both Lake Mead and Lake Powell will be reached under current conditions by 2017 with 50% probability. While these dates are subject to some uncertainty, they all point to a major and immediate water supply problem on the Colorado system. The solutions to this water shortage problem must be time-dependent to match the time-varying, human-induced decreases in future river flow.”⁶

⁴ Water Supplies of the Colorado River, 1965. <http://www.riversimulator.org/Resources/Hydrology/TiptonReport1965ocr.pdf>

⁵ Colorado River Basin Water Problems: How to Reduce Their Impact, 1979. <http://www.riversimulator.org/Resources/GAO/CRBwaterProblems1979.pdf>

⁶ When Will Lake Mead Go Dry, 2008. <http://www.riversimulator.org/Resources/ClimateDocs/2008BarnettPierce.pdf>

The proposed action is not consistent with recent supply and demand studies

- The proposed action is not consistent with 2007 Interim Guidelines:

“...the Secretary determined that it is prudent and desirable to promulgate guidelines to establish a procedural framework for facilitating the creation and delivery of ICS (Intentionally Created Surplus) within the Lower Basin.”⁷

- The proposed action is not consistent with the analysis of 2012 Basin Study:

“...the long-term projected imbalance in future supply and demand is about 3.2 million acre-feet by 2060.”⁸

- The proposed action is not consistent with the analysis of Drought Contingency Planning for the Upper Division:

“The goal of the contingency plan is to avoid water levels in Lake Powell from falling below the minimum level and still produce power.”⁹

- The proposed action is not consistent with the stated goal of Drought Contingency Planning for the Lower Division:

“[p]articipation by all Lower Basin States to contribute voluntary reductions; participation by Reclamation to increase conservation of supplies in the Lower Basin; provision of certainty to Arizona and CAP on the timing and magnitude of additional reductions at low reservoir elevations; the beginning of the process to address the structural deficit.”¹⁰

Conclusion

The approval of this project will force the living communities of the Colorado River basin to wither away. The long-anticipating day of reckoning occurred on the day the Record of Decision for Interim Guidelines was signed in December of 2007. The position of Reclamation is to balance the water budget immediately for the future survival of human

⁷ Record of Decision, 2007. <http://www.riversimulator.org/Resources/USBR/ShortageEIS/FEIS/RODshortage2007.pdf>

⁸ Basin Study Fact Sheet, 2012. <http://www.riversimulator.org/Resources/USBR/BasinStudy/Final/FactSheetJune2013.pdf>

⁹ Upper Basin DCP, 2018. <http://www.riversimulator.org/Resources/ContingencyPlanning/BackgroundColoradoRiverContingencyPlanning2016CRWCD.pdf>

¹⁰ Lower Basin DCP, 2016. <http://www.riversimulator.org/Resources/ContingencyPlanning/CoRiverReportDroughtContingencyCAPjanuary2016.pdf>

and wildlife communities. Exceptions to this mission do not include the fulfillment of the NM Unit. The project must be denied.

Sincerely yours,

Sarah Stock
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Living Rivers
Moab, Utah

Dr. Robin Silver
Co-founder, Center for Biological Diversity
Flagstaff, AZ

John Weisheit
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