

LIVING RIVERS

COLORADO RIVERKEEPER[®]

April 24, 2009

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Re: Comments on Aspinall Unit (Gunnison River) Draft Environmental Impact Statement

Dear Mr. McCall

Living Rivers and the Center for Biological Diversity submit this letter as comments on the draft Environmental Impact Statement (EIS) by the Bureau of Reclamation (Reclamation) for the Aspinall Unit on the Gunnison River.

Reclamation's truncation of habitat along this stretch of Upper Basin Colorado River has gone on unabated for four decades, devastating critical habitat for Colorado River endangered fish. Throughout this period Reclamation has been fully aware of the need to implement mitigation measures such as fish ladders, selective withdrawal, sediment augmentation or dam decommissioning, but up until now has been resistant.

While we appreciate Reclamation's effort to finally address these problems with this draft EIS, we find it lacking sufficient analysis of the problem and of Reclamation's role in perpetuating it, and thus find little value any of the alternatives presented in achieving its intended recovery objectives.

Purpose of and Need for the Proposed Action

Reclamation's longstanding negligence is directly responsible for the loss of Colorado pikeminnow, razorback sucker, bonytail chub and humpback chub throughout the Upper Colorado River watershed. Reclamation knew as early as 1967 that its dam operations here constituted a threat to these endangered species. Beginning in 1978 the US Fish and Wildlife Service, in its Biological Opinions for Upper Basin dam operations, stated clearly that Reclamation's actions had degraded critical habitat, and that mitigation measures were urgently needed. This was further formalized in 1994 when the Gunnison and the Colorado rivers were formally designated with critical habitat, and should have been managed accordingly and promptly.

Reclamation's longstanding resistance toward undertaking programmatic and basin-wide actions to remove jeopardy for these endangered species stands in direct conflict with 40 C.F.R. 1508.27 (NEPA), which states:

(a)...the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality...Both short- and long-term effects are relevant...(b)...The following should be considered in evaluating intensity...(7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts...

Reclamation's delinquency in working to comply with NEPA and ESA has now brought the bonytail chub and razorback sucker to the brink of extinction. While efforts to augment these endangered populations with hatchery-born fish are laudable, the mere act of artificially producing fish to be deposited into river habitat that is too far degraded to support their reproduction is a thoroughly useless exercise and in no way constitutes sound recovery for endangered species.

No discussion of the purpose and need for this proposed action can be complete without a systematic, independent review of Reclamation's history in creating this purpose and need, and how unless Reclamation's internal culture is changed, the agency is incapable devising a credible response, much less implementing one.

Adaptive Management

The preferred alternative and its flow recommendations include a proposal to establish an Adaptive Management Program (AMP) to oversee dam operations at the Aspinall Unit. As has been demonstrated by both the Glen Canyon and Flaming Gorge Dam programs, this approach has the potential to be highly politicized and dominated by special interest that marginalizes the recommendations of science to properly inform and affect recovery. It's been well over a decade since the Adaptive Management Program has been underway at Glen Canyon Dam, and Grand Canyon native fish habitat is no better off. The razorback sucker is now extirpated and the humpback chub still borders on the edge of extinction, while hydropower interests still control whether or not anything beneficial for Grand Canyon's native fish will be implemented. We're only two years into the Flaming Gorge experiment, but nonetheless the same flawed principles apply: science must take a back seat to special interest while habitat continues to deteriorate. This must not be the case with any AMP established for the Gunnison Aspinall Unit; peer-reviewed science should be determining the fate of these unique and endangered habitats.

Climate Change

Over the past four years mounting research illustrates that the Colorado River water supply system is unlikely to meet its delivery requirements in the future. The most recent findings by Tim Barnett and David Pierce as published in *Proceedings of the National Academy of Sciences* earlier this month forecasted, "if climate change reduces runoff by 10%, scheduled deliveries will be missed ~58% of the time by 2050. If runoff reduces 20%, they will be missed ~88% of the time."

Although it's now widely accepted that warmer global temperatures are very likely to contribute to reduced runoff for Colorado River storage reservoirs and water users, Reclamation has been well aware that even without climate change the likelihood of a water shortage has been looming due to the over allocation of the water rights relative to natural flows. Reclamation must become present and accountable to a situation that became self-evident in 1953 when congressional hearings for the Colorado River Storage Project began, which duly informed the public that the hydrologic determination of the Colorado River Compact is flawed. Although an agreed-upon adjustment for the basin has been reset at 15 million acre-feet (maf) at the Lee's Ferry gage (Compact Point), the average flow of the

Colorado River since the signing of the Upper Basin Compact (1948) has been reduced to an average annual flow of 14.17 maf, and for the last decade the average has been a mere 11.47 maf.

In 2008 Reclamation demonstrated token recognition to the problem of looming shortages with the implementation of Shortage Criteria for the operations of Lake Powell and Lake Mead. Unfortunately, as we and a number of other stakeholders have advised, Reclamation has failed to take into account the range of likely shortages that scientists are forecasting, illustrating yet again its culture of yielding to the demands of special interest as opposed to the broader public, to which the agency is responsible.

No credible alternative for the proposed can be developed unless it first makes an assessment in light of the impacts of climate change on flows, dam operations and ultimately the habitat condition of Colorado River endangered fish. As a result, this EIS is fundamentally flawed, until a thorough analysis of climate change impacts relative to the proposed action are evaluated.

Preliminary Alternatives

Reclamation has provided no legitimate rationale for why it has not evaluated the dam decommissioning alternative as a means for improving habitat conditions sufficient for recovery of Colorado River native fish. The only reference to the decommissioning alternative states, "Concepts initially eliminated included decommissioning the Aspinall Unit or portions of it because this alternative would not meet the CRSP purposes."

We consider such a view surprising since in 2006 and 2007 in Reclamation comments relating to the decommissioning alternative we and others proposed in relation to the reoperations of Lakes Powell and Mead under low reservoir conditions stated at length that the only reason the decommissioning alternative was not explored was due to a congressional rider barring Reclamation from undertaking such an analysis as it relates to Glen Canyon Dam. Reclamation is under no such constraints in regards to the Aspinall Unit. In fact, the guidelines from the Council on Environmental Quality (CEQ) compel Reclamation to address the full range of potential alternatives. With dam decommissioning becoming increasingly popular as a means of restoring native riverine habitat, it is indeed a credible alternative that must be explored in the context of this proposed action.

Water Quality

The presence of high selenium concentrations in the Gunnison River remains an unresolved issue that was not sufficiently addressed in this EIS. Though selenium has been reduced, the rates remain high enough to suspect the fertility of endangered species has been compromised. The implications are that the proposed flow regimes for the Gunnison River may be insufficient if native fish sterility is indeed a pervasive problem due to selenium concentrations.

Non-native Fish

Reclamation acknowledges that the existence of non-native species is a fundamental reason why native fish populations suffer in the Colorado River basin. The Aspinall Unit should be managed exclusively for the benefit of native fish. As demonstrated in the Adaptive Management Program of Glen Canyon Dam, the management of enhancing both native and non-native fish simultaneously has not brought the desired recovery of the humpback chub or the razorback sucker. Non-native fish must be made a lesser priority and, as need be, removed from the Gunnison River altogether. Moreover, above the Aspinall Unit, we encourage the agencies to recover of the native Colorado River cutthroat trout.

A Flawed Approach

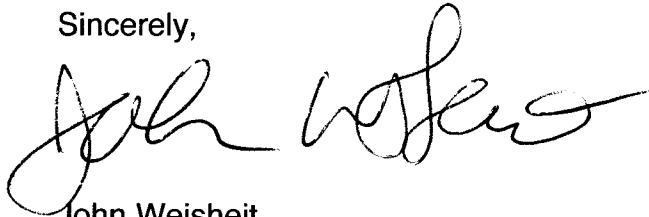
Reclamation's approach attempting to address the deterioration of critical habitat along the Gunnison is fundamentally flawed as it is taking a piece-meal approach to habitat restoration, when native habitat was designed with Reclamation's artificial boundaries in mind. For example, there are another 200 miles of critical habitat beyond the confluence of the Gunnison and Colorado Rivers that has not been sufficiently addressed in this EIS or any EIS by Reclamation. This is also true of the Flaming Gorge EIS concerning the middle and lower reaches of the Green River. We have observed that a serious problem exists with native fish mortality during summer patrols of the lower reaches of the Green and Colorado rivers.

Reclamation must therefore broaden the purpose and need statement to include a basin-wide programmatic EIS in order to address the growing loss of critical habitat for Colorado River endangered fish throughout the Colorado River watershed.

Page 6
April 24, 2009
Mr. Steve McCall

Besides implementing performance-orientated recovery programs, this basin-wide PEIS must include the investigation of decommissioning unnecessary dams to increase the range of critical habitat, transfer water storage from surface reservoirs to managed aquifer recharge facilities, initiate sediment management plans, develop a floodplain management plan below Davis Dam, and return Colorado River water to the estuary at the Gulf of California.

Sincerely,

A handwritten signature in black ink, appearing to read "John Weisheit". The signature is fluid and cursive, with the first name "John" being more prominent than the last name "Weisheit".

John Weisheit
Living Rivers
Conservation Director

Michele Harrington
Center for Biological Diversity
Rivers Conservation Manager