

February 22, 2008

## **Grand Canyon NP – Bureau of Reclamation Experimental Water Releases**

### **1. The Grand Canyon Protection Act (1992)**

The Act requires the Bureau of Reclamation to “exercise other authorities under existing laws in such a manner as to protect, mitigate adverse impacts to, and improve the values for which Grand Canyon National Park and Glen Canyon National Recreation Area were established, including, but not limited to natural and cultural values and visitor use.”

### **2. Action proposed by Bureau of Reclamation in the EA:**

Two experiments have been proposed to benefit endangered Humpback Chub and conserve the natural, cultural, and recreational resources of Grand Canyon National Park consistent with the Grand Canyon Protection Act and the Endangered Species Act including the fine sediment in the Colorado River corridor and Grand Canyon NP which will include:

- 1) One High Flow Experiment or HFE on March 5, 2008 during 2008-2012.
- 2) High steady flows each year during the months of September and October from 2008-2012.

### **3. Biological Assessment and Biological Opinion**

The BOR sent a Biological Assessment to the FWS on December 21, 2007 to re-initiate Sec. 7 consultation on the effects of dam operations over a period of five years on the Humpback Chub. FWS sent the BA to the NPS on Jan 10, 2008. The BOR did not officially release the BA to the NPS until it was released to the public. The Biological Opinion is expected to be issued by the FWS and we understand that they will conclude that steady flows for a two-month period each year for five years in September and October will not negatively impact the chub, nor will it benefit the chub. Conservation measures will likely be requested such as requiring control of non-native fish, translocations of chub, etc.

### **4. Release of EA**

The park received copies of the EA at 10:00 am on February 7, 2008 with comments due back to the BOR at noon on February 8, 2008. The park and region have had numerous meetings with the BOR and the other DOI agencies over the last two weeks to discuss issues. The park submitted formal comments on February 19, 2008.

## 5. Issues to be Resolved

Although there are numerous other issues that the park has raised, these are the key issues to resolve:

- a. NPS wants to be a collaborator with the BOR in all discussions related to the implementation of the 1997 ROD and adherence to the Grand Canyon Protection Act of 1992. The NPS has largely been excluded from participating in making decisions jointly which affect park resources.
- b. NPS wants additional High Flow Experiments (HFE) because although these water releases build beach habitat, operation of the dam following these flows erode beaches and backwaters over time. These HFEs may be required annually or not for several years depending on how quickly the beaches erode.
- c. NPS wants additional seasonally adjusted steady flow experiments because the science indicates and the USGS scientists have advised that lower steady flows in the summer months would more likely be beneficial to the survival and recruitment of the chub. While a year long seasonally adjusted steady flow experiment which could potentially provide the highest benefits to the chub is preferred, the NPS is willing to accept flexibility on this. Any experiments proposed by the BOR should consider the results of 10 years and 80 million dollars worth of research completed for the GCPA and the 1996 ROD.
- d. NPS wants the EA to have language that would allow flexibility in determining how and when seasonally adjusted steady flows and high flows would occur. There is substantial science that has yet to be fully analyzed that needs to be considered. Further, NPS and FWS need to be a part of those determinations.
- e. Language in the introduction of the EA which discuss legal authorities and the purpose of the Glen Canyon Dam indicates that the operation of the dam takes priority over resource protection issues in the Grand Canyon.

## 6. Impairment Determination

Although the Solicitor's Office indicated that the determination made by Grand Canyon Superintendent that the measures proposed in the EA "would likely result in impairment of the resources" was inappropriate because this can only be a legal determination, Chapter 1.4.5 of the NPS Management Policies of 2006 says that, "*The impairment that is prohibited by the Organic Act and the General Authorities Act is an impact that, **in the professional judgment of the responsible NPS manager**, would harm the integrity of park resources or values, including the opportunities that otherwise would be present for the enjoyment of those resources or values.*"