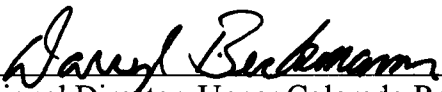


RECORD OF DECISION

ELEPHANT BUTTE AND CABALLO RESERVOIRS RESOURCE MANAGEMENT PLAN Final Environmental Impact Statement

February 18, 2003

Approved


Regional Director, Upper Colorado Region, U.S. Bureau of Reclamation Date 2/24/03

I. Introduction

This is the Record of Decision of the United States Department of the Interior (USDI), Bureau of Reclamation (Reclamation), Upper Colorado Region, for the Elephant Butte and Caballo Reservoirs Resource Management Plan (RMP) Project located in Sierra and Socorro Counties, south-central New Mexico. The RMP is the subject of the Final Environmental Impact Statement (FEIS), Elephant Butte and Caballo Reservoirs Resource Management Plan, New Mexico (FEIS INT-FES-02-17, dated February 2002), developed in compliance with the National Environmental Policy Act (NEPA).

II. Decision

The FEIS identified Alternative C, the Multi-purpose Emphasis Alternative, as the action alternative providing the most reasonable activities with adequate resource protection and minimal environmental impacts to project land. This Alternative was selected as the preferred alternative approving the implementation of all activities as identified. One component of the preferred alternative included the privatization of 378 lease lots, also referred to as cabin sites.

On December 16, 2002, the President signed into law, H.R. 706, "directing the Secretary of the Interior to "convey certain properties in the vicinity of Elephant Butte Reservoir and the Caballo Reservoir, New Mexico", to the Elephant Butte/Caballo Leaseholders Association, Inc. at fair market value. Public Law 107-335 further emphasized that the certain properties referred to above, "means all the real property comprising 403 cabin sites" at Elephant Butte and Caballo Reservoirs including easements, roads, and other appurtenances. The environmental consequences of privatizing all 403 lease lots were discussed in the FEIS as part of Alternative D, Recreation Development Emphasis Alternative.

Therefore, the decision is to proceed with the preferred alternative, Alternative C (Multi-purpose Emphasis Alternative) as described in the FEIS with the exception that 403 cabin sites would be conveyed to private ownership (as directed by Public Law 107-335) rather than the proposed 378 cabin sites. Future resource management at Elephant Butte and Caballo Reservoirs will proceed consistent with preferred alternative activities and will incorporate lease lot disposition as directed by Congress.

III. Background

The FEIS identified and analyzed probable impacts to the human environment that would result from the proposed Elephant Butte and Caballo Reservoirs RMP. The RMP was prepared pursuant to Title 28 of Public Law 102-575 entitled the "Reclamation Recreation Management Act of 1992." The purpose of the RMP was to produce a document that would guide Reclamation and local, state, federal, and other participating agencies in managing, allocating, and appropriately using Elephant Butte and Caballo Reservoirs' land and water resources. The RMP was also designed to assist Reclamation in making decisions regarding the management of recreation resources. The RMP document includes long-term management goals and objectives for both reservoirs and their associated lands (i.e., the Elephant Butte and Caballo Reservoirs RMP Project Area). The RMP was developed by Reclamation to provide a conceptual framework for the conservation, protection, development, use, enhancement, and management of resources at these reservoirs. The FEIS was prepared by Reclamation.

The need for the RMP stems from impacts to the Elephant Butte and Caballo Reservoirs RMP Project Area (Project Area) resources caused by a mix of previous and current land use and management situations. In 1973, Reclamation leased certain lands, water areas, and other improvements and facilities within the Project Area to the New Mexico State Park and Recreation Division (State Parks) to manage for recreation as a state park. Similarly, in 1983 Reclamation entered into a national agreement with the USDI Bureau of Land Management (BLM) to manage grazing and administer permits and fees; and in 1987, Reclamation and the BLM entered into a statewide agreement for management of grazing on certain Project Area lands and administration of permits and fees. In recent years, portions of the Project Area have experienced an increase in recreation-oriented visitation and adjacent private land development that has subsequently increased demands on Project Area recreational and natural resources (e.g., campsites, soil, vegetation, water). Hence, Reclamation, State Parks, and the BLM are presently faced with the challenge of managing the Project Area in a way that is beneficial to both the public and the natural and cultural resources. These conditions indicate a need for the development of a comprehensive RMP, pursuant to Public Law 102-575, to maximize overall public and resource benefits. Analysis of an array of reasonable alternatives is needed to allow Reclamation, State Parks, and the BLM to meet statutory responsibilities for protecting resources and ensuring public health, safety, and welfare.

IV. Project Description and Other Alternatives Considered

The alternatives development process identified three reasonable alternatives and a no action alternative (Alternative A), for consideration in the FEIS. The three action alternatives were as follows:

- (1) Alternative B: Resource Conservation Emphasis,
- (2) Alternative C: Multi-Purpose Emphasis, and
- (3) Alternative D: Recreational Development Emphasis.

The following is a list of elements that would be implemented with each of the action alternatives. They include activities or programs specific to certain resources or sites within the Project Area.

- ▶ Identify and designate Wildlife Management Areas in the Project Area.
- ▶ Identify and protect wetland and riparian areas in the Project Area in accordance with existing regulations.
- ▶ Provide sanitation/waste management facilities at all recreation sites in the Project Area.
- ▶ Develop and implement a wildlife management plan for the Project Area.
- ▶ Develop and implement an erosion control plan for the Project Area.
- ▶ Develop and implement a grazing management plan for the Project Area.
- ▶ Develop and implement an ongoing water quality monitoring program for the Project Area.
- ▶ Develop and implement a fishery management plan for the Project Area.
- ▶ Develop and implement an integrated cultural resources management plan for the Project Area.
- ▶ Emphasize protection of archaeological and paleontological resources in the Project Area.
- ▶ Provide enhanced public information regarding recreational opportunities in and management of the Project Area.
- ▶ Support the development of a drought contingency plan.
- ▶ Control access to sensitive areas in the Project Area.
- ▶ Provide "barrier free" access to the Project Area for persons with disabilities.

- ▶ Develop and implement a contingency and containment plan for stored petroleum products in the Project Area.
- ▶ Protect and enhance areas designated as territories occupied by endangered species in the Project Area.
- ▶ Develop a fire management plan for the Project Area.
- ▶ Install physical designations of boundary lines for the Project Area such as fencing and/or other appropriate measures of identification.

Alternative B, the Resource Conservation Emphasis Alternative, was identified as the environmentally preferred alternative.

Alternative C, the Multi-purpose Emphasis Alternative, was identified as the preferred alternative. The preferred alternative provides for a variety of multiple uses including expanded developed recreation areas, improved primitive recreation areas (designated sites, some limited facilities), and wildlife management areas. New facilities and roads would be developed including boating, camping, picnicking, hiking, and biking facilities. Facilities that improve or protect environmental quality are included, as well as regulation and information systems that inform the public. The types of activity opportunities and management practices remain the same, but there are additional recreational opportunities. Land use cooperative agreements with jurisdictions managing surrounding lands would be pursued. Under this alternative, 378 of the total 403 lease lots may be privatized without endangering the future management of the area for public recreation. A further recommendation under this alternative was that the remaining 25 lease lots, representing potential areas for future public recreation expansion, should be excluded from privatization. Lease holders not included in the proposed privatization would be offered the opportunity to relocate to an area designated for privatization. Those electing to stay in certain areas may continue to lease their lots until such time as public recreation needs require expansion of public recreational facilities. In these cases, leases would be priced at fair market value, and current management practices would continue through renegotiated leases. Grazing may be limited, reduced, increased, or maintained, based on the capability of the resources to sustain grazing, and grazing would be regulated in a more-effective manner through development of an allotment-specific grazing management plan by Reclamation and the BLM. Under Alternative C, some new facility development would occur and existing recreational developments would be maintained.

Alternative D, the Recreational Development Emphasis, focused on the provision for and expansion of a variety of recreational opportunities by maximizing development on all Project Area lands suitable for recreational development. Facilities, policies, and management practices that improve or protect environmental quality would be secondary to providing recreational opportunities to the public. Under this alternative, grazing would be modified and considered secondary to other management objectives, and a significant amount of new facility development would occur. All lease lots (403) would be sold at fair market value and privatized at their current locations. As opposed to Alternative C, this would include the privatization of the additional 25 lease lots not

recommended in Alternative C. The privatization of these 25 lease lots would enhance the recreational benefits to the individual leaseholders and further encourage development of project land. However, these actions would also compromise the future management and use of these particular areas for public recreation. With the creation of small private in-holdings, private/public access and user conflicts, utility complications, absence of individual development restrictions protecting the views within public recreation areas, and potential impacts on an existing Historic District, the needs of the public would become secondary to the interests of lease lot occupants.

V. Basis of Decision and Issues Evaluated

Issues that drove the alternative formulation were in several resource areas, including soils, sediment, water, upland vegetation, riparian-wetlands, wildlife, fisheries, threatened, endangered, and other special status species, cultural resources, Indian Trust Assets, paleontological resources, socioeconomics, environmental justice, lease lots, recreation, rangeland and grazing, hazardous, liquid, and solid wastes; mineral resources, and transportation and access. A listing of the primary issue categories discussed in the FEIS is given below:

- ▶ Create and maintain wildlife habitat areas.
- ▶ Protect riparian and wetland plant communities.
- ▶ Protect and enhance the quality of the fishery.
- ▶ Protect and improve water quality.
- ▶ Control erosion.
- ▶ Manage vegetation.
- ▶ Manage and protect cultural resources.
- ▶ Manage grazing.
- ▶ Manage lease lots.
- ▶ Provide for controlled development.
- ▶ Provide enforcement and safety control education.
- ▶ Provide support for drought contingency plans.
- ▶ Provide additional waste collection facilities.

- ▶ Clarify management and responsibilities.
- ▶ Provide contingency and containment plans for stored petroleum products.
- ▶ Control/manage recreational development.

- ▶ Protect and clarify public access and use.

These and other related issues are discussed, with varying emphasis, in the FEIS. The resolution of these issues or suggested courses of action, along with the environmental impacts to the related resources, formed the basis for the selection of the preferred alternative. The preferred alternative fulfills the purpose and need of the RMP.

VI. Implementing the Decision and Environmental Commitments

The decision is to implement Alternative C except for the privatization of the 403 cabin sites mandated by P.L. 107-335. Project planning, as described in the FEIS, included all practicable means of avoiding adverse environmental impacts. Where this was not possible, Reclamation is committed to the following environmental mitigation programs, where appropriate and necessary, to ensure the protection of environmental resources and to establish the appropriate level of mitigation for impacts resulting from RMP implementation. Mitigation activities will be coordinated and administered by Reclamation, with the assistance of representatives of the USDI Fish and Wildlife Service (USFWS), the BLM, New Mexico Department of Game and Fish (NMDGF), New Mexico Environment Department (NMED), New Mexico State Parks, Sierra County, and Socorro County. Specific mitigation and monitoring proposals are described in detail in the FEIS.

Soils

To mitigate the impacts from upland and shoreline erosion, Reclamation will develop and implement an erosion control plan. The erosion control plan will include several elements to mitigate erosion, such as: (1) requiring a storm water pollution prevention plan for all construction operations that disturb a total of 2 or more hectares (5 or more acres); (2) requiring use of published best management practices (BMPs) for controlling erosion and sedimentation from storm water runoff; and (3) addressing runoff from all roads (paved and unpaved), campgrounds, parking lots, administrative buildings, lease lot buildings, etc. The plan will also include storm water runoff detention basins that would function secondarily as wildlife habitat enhancements and areas to replace vegetation lost to shoreline erosion, campground construction, or road construction.

Several other elements will help mitigate soil erosion including the implementation of an integrated pest management plan, identification of beneficial reservoir pool levels and river flows, and protection of riparian-wetlands.

Sediment

Because sediment is transported to the Project Area by the Rio Grande from upstream areas, no specific mitigation measures are proposed as part of the RMP Project. However, sediment management and sedimentation issues are being addressed through the NEPA process for the Rio Grande and Low Flow Conveyance Channel Facilities and Operations Improvement Study. Specific recommendations for sediment management within the Project Area resulting from this study will be implemented as part of the RMP Project.

Water

Reclamation, State Parks, and the NMED will coordinate with lease lot owners, adjacent private landowners, and Sierra County officials to encourage and support the rehabilitation and modernization of sewer septic systems to ensure compliance with state regulations. If the Lease Lot Areas, or a portion thereof, are privatized and remain in use, their impacts to groundwater should be minimized by the installation of a sanitary sewer system. Reclamation will encourage the newly privatized lease lot areas to implement a Regional Sanitary Sewer System and will incorporate such references in the necessary title transfer agreements. Other mitigation measures could include retrofitting the existing traditional septic tank systems remaining in operation within the Project Area, to create more-efficient “alternative systems” as described in the Environmental Protection Agency document *Response to Congress on Use of Decentralized Waste Water Treatment Systems*, dated 1997. In addition, Reclamation, in cooperation with the NMED, will develop and implement a water quality study and monitoring plan for Elephant Butte and Caballo Reservoirs.

Reclamation will investigate the feasibility of developing guidelines for enhancing water-related resource values where opportunities exist within existing operating criteria. These guidelines will be developed to maximize both ecological and recreational benefits through improved management of available water resources.

Riparian-Wetlands

As is now the case, State Parks and Reclamation construction contracts will mandate that any permits required under the Clean Water Act (33 U.S.C. 1251 et seq.; P.L. 92-500 as amended) will be obtained prior to construction of improvements. As mandated under Section 404 of the Clean Water Act, all actions requiring the filling and/or dredging of riparian-wetlands will be avoided and/or minimized wherever practicable. Unavoidable impacts will be compensated within the Project Area in-kind with the goal of no net loss in riparian-wetland acreage. In addition, compensatory mitigation will replace riparian-wetland functions in-kind wherever practicable. Reclamation will continue to protect jurisdictional wetlands in accordance with existing Federal regulations. To prevent impacts to wetland areas or riparian habitat from the development and expansion of recreation facilities, all construction activities will avoid disturbance (both directly and indirectly) of wetland and riparian areas.

In coordination with appropriate agencies, Reclamation will develop and implement a wetlands

management plan. This plan will specify the appropriate setback for the development of campgrounds and their ancillary facilities from riparian, wetland, and aquatic habitats. Best management practices and erosion-control measures will be applied to limit sedimentation impacts to any nearby wetlands.

Fisheries

In coordination with the NMDGF and State Parks, Reclamation will direct the development and implementation of a fishery management plan that will seek to enhance recreational fishery opportunities where feasible and within existing operating criteria. As part of the plan, the Elephant Butte Reservoir, Caballo Reservoir, and Rio Grande fisheries will be monitored to evaluate the need for catch limitations. Reclamation will support the review and establishment of fishing regulations for certain shoreline areas to protect the shoreline fishing experience and the enforcement of no-wake zones in bay areas. If found to be beneficial, a stocking and fishery management agreement will be initiated between all managing agencies.

Maintaining and enforcing the no-wake zones, implementing water quality monitoring, protecting riparian-wetland vegetation, developing and implementing fishery management and stocking plans, and identifying beneficial pool levels and river flows would mitigate any adverse impacts under the preferred alternative.

Wildlife and Threatened, Endangered, and Other Special Status Species

Mitigation measures for wildlife and threatened, endangered, and other special status species include the following:

- ▶ Locate the multi-use trail system away from areas designated as “sensitive wildlife habitat.”
- ▶ Protect jurisdictional wetlands in accordance with existing Federal regulations. During the development and expansion of recreational facilities, all construction activities will avoid disturbance to jurisdictional wetlands (both directly and indirectly).
- ▶ Develop and implement a wetlands management plan in coordination with appropriate agencies. This plan will specify the appropriate setback for campgrounds and their ancillary facilities from aquatic, wetland, and riparian habitats.
- ▶ Use BMPs and erosion control measures to limit sedimentation impacts to nearby riparian-wetland areas.
- ▶ Monitor recreational use in Wildlife Management Areas to ensure minimal disturbance within these areas.
- ▶ Develop and implement a wildlife management plan for protection and enhancement of wildlife species within specific areas. The plan will be developed by Reclamation, in

cooperation with State Parks, the NMDGF, and the USFWS, and will specify suitable recreational use of Wildlife Management Areas and will identify measures to enforce restrictions on recreational use. The plan will also target areas that are in need of restoration because of recreational impacts. The future desired vegetative conditions will be described along with measures to expand native riparian and wetland habitats.

- ▶ Continue to coordinate with the USFWS regarding the protection of the southwestern willow flycatcher. Current and future efforts may involve expanding and improving riparian habitat in occupied areas, removing salt cedar, restricting or limiting grazing, and trapping brown-headed cowbirds. The population of southwestern willow flycatcher will continue to be monitored on an annual basis as recommended in the Biological Opinion issued by the USFWS.
- ▶ Conduct surveys for nesting southwestern willow flycatcher, Bell's vireo, and mountain plover in appropriate habitat prior to any ground-disturbing activities.

Cultural Resources

A cultural resources management plan (also called a Historic and Archaeological Resources Protection Plan) will be developed and implemented for the Project Area. The plan will provide for identification and evaluation of cultural resources, as well as procedures to minimize damage to cultural resources and promote their appropriate use and interpretation. For example, the history of sites such as the Elephant Butte Historic District and Fort McCrae can be interpreted by the general public through signs, hiking trails, driving tours, or museum exhibits. This information has the potential to pique user interest in the area and educate the public regarding their responsibilities to protect archaeological and historical sites.

As is currently practiced, prior to the initiation of any ground-disturbing activities, all cultural resources located within the area of potential effect will be assessed by Reclamation for significance in terms of the criteria established by the NRHP. If in-place preservation of significant sites is not possible, a treatment or mitigation plan will need to be developed in consultation with the New Mexico State Historic Preservation Office and interested parties. All construction activities will include a "stop work" order if cultural resources are found during construction.

Paleontological Resources

Prior to the initiation of any ground-disturbing activities, Reclamation will ensure that paleontological resources are identified and evaluated. If in-place preservation of significant fossil or trace fossil resources is not possible, a mitigation plan will be developed in consultation with paleontologists. All construction activities will include a stop work order if paleontological resources are found during construction.

Recreation

Where safety is documented as a significant issue through monitoring of wave-cut cliffs in recreation areas, Reclamation and State Parks will take appropriate measures to alleviate dangerous situations. Reclamation and State Parks will develop and implement design guidelines for new facilities at Elephant Butte and Caballo Reservoirs. Reclamation will ensure that barrier free access is provided for persons with disabilities at all appropriate facilities, consistent with current Federal regulations and guidelines. Reclamation, State Parks, and the NMDGF will control access in sensitive areas (e.g., Wildlife Management Areas, riparian-wetlands, eroded shorelines). Reclamation, in cooperation with State Parks, will develop and implement a public information program for recreation opportunities including use guidelines, area descriptions, maps, etc. An interpretive master plan, highlighting opportunities for educating visitors about the Project Area, will also be developed and implemented. Reclamation and State Parks will ensure that appropriate sanitation/waste management facilities are provided at all recreation areas.

VII. Comments on the Final Environmental Impact Statement (FEIS)

The development of the RMP planning process incorporated the comments from the public and agency representatives through scoping meetings, planning workgroup workshops, newsletters, and media reports. In the majority of comments, concerns were expressed by the leaseholders that they be given an exclusive opportunity to purchase their individual lease lots at a minimal price. Another special interest, ranching, also expressed a desire to continue grazing on Reclamation Land at existing allotment numbers at present rates. These comments were taken into consideration and incorporated into the planning process where such implementation could provide public benefits.

The final opportunity for comments by the public occurred with the initial distribution of the FEIS. The results of that comment period was the receipt of twenty-nine formal comment letters on the FEIS from only one individual, Mr. Jeffrey W. Hanson. Mr. Hanson's primary complaint in all his comment letters was that Reclamation failed to answer his questions posed in the 26 detailed comment letters he sent regarding the Draft EIS (DEIS). Mr. Hanson contends that Reclamation did not provide specific answers to his specific questions. However, Reclamation believes that appropriately detailed responses were provided to all relevant questions posed by all comment letters received on the DEIS. Reclamation's responses to Mr. Hanson's comment letters are provided in the Multiple Letters (2) section of *Appendix D: Comments and Responses on the Draft Environmental Impact Statement* dated February 2002. Most of the answers and responses to Mr. Hanson's questions are provided in the FEIS document with the remaining answers to his questions provided in Appendix D.