

chapter. For each resource topic, the Final Environmental Impact Statement established thresholds or indicators of magnitude of impact. An impact approaching a "major" level of intensity is one indication that impairment could result. For each impact topic, when the intensity approached "major," the interdisciplinary planning team would consider mitigation measures to reduce the potential for "major" impacts, thus reducing the potential for impairment.

The National Park Service finds that alternative B (modified preferred alternative) presented in the Final Environmental Impact Statement will not result in an impairment of park resources and values for which the Glen Canyon National Recreation Area was established.

Rulemaking Process Comments

7. Several commenters questioned how a proposed rule supporting a preferred alternative can be issued before a Final Environmental Impact Statement and a Record of Decision have been issued.

NPS Response: In January of 2003, the National Park Service published a proposed rule that proposed the preferred alternative in the Draft Environmental Impact Statement. The National Park Service approach was to allow the public an opportunity to view the preferred alternative in a regulatory form and comment on that proposed rule similar to the comment period for the Draft Environmental Impact Statement. Upon review and consideration of those comments, and in conjunction with the comments received on the Draft Environmental Impact Statement, the National Park Service has modified the final rule and the Final Environmental Impact Statement. Publishing the proposed rule after the DEIS allowed the National Park Service to maintain flexibility in the regulatory options in contrast to if it had waited until after the Record of Decision was issued, since that would have been a final decision document.

8. One commenter stated that until the NEPA process is complete, the rulemaking does not perform the minimal duty of informing the agency or the public about the environmental effects of the proposed rule.

NPS Response: Federal rulemaking requires that the National Environmental Policy Act be addressed, along with various other laws and Executive Orders, in the proposed and final rules. Again, the National Park Service approach was to allow the public to comment on the preferred alternative identified in the Draft Environmental Impact Statement in a

regulatory form. This is the purpose of issuing proposed rules; to give the public a preliminary review of a proposed action with opportunity to comment on that proposal, provide additional or new information, and point out elements which the commenter feels are accurate or inaccurate. To that end, the agency considers those comments and modifies the final rule as necessary or even re-proposes a new rule if significant changes need to be made. The National Park Service cannot issue a final rule until a Record of Decision is issued under the NEPA portion of the Compliance section of the rule. The final rule is the National Park Service's final conclusion and must be consistent with the Record of Decision.

9. One commenter stated that there is a problem with publishing a final rule prior to completing the NEPA process and that this would tend to nullify the intent of NEPA by revealing that the National Park Service has already reached a conclusion prior to actually performing the required analysis.

NPS Response: We agree, but the commenter may misunderstand what was published in the **Federal Register**. The National Park Service has only published and taken comment on a proposed rule. This document is the final rule and it is being published now that the NEPA process is complete and a Record of Decision has been issued.

10. One commenter stated that the statement "The National Park Service has analyzed this rule in accordance with the criteria of the National Environmental Policy Act * * *" is clearly not true since the environmental analysis has not been completed. There has only been a Draft Environmental Impact Statement with no response to the concerns raised by the public.

NPS Response: NEPA and CEQ guidelines require that agencies publish a Draft Environmental Impact Statement as indicated by the commenter. Because the issuance of a Draft Environmental Impact Statement is consistent with these guidelines, and neither NEPA nor CEQ address the timing related to issuance of a proposed rule, the National Park Service is in accordance with NEPA.

11. One commenter is concerned that earlier public comments on the Draft Environmental Impact Statement were not taken into consideration in the rulemaking process and cites that the current discussion in the final rulemaking does not address any of the public concerns.

NPS Response: Again, the commenter seems to be under the impression that the National Park Service had

previously issued a final rule on PWC management at Lake Powell. The National Park Service has issued a proposed rule which solicits comments on the proposed action (implementation of the preferred alternative identified in the Draft Environmental Impact Statement). The National Park Service did not take any comments received on the Draft Environmental Impact Statement into consideration when writing the proposed rule. Comments on the Draft Environmental Impact Statement and the proposed rule were incorporated in the Final Environmental Impact Statement, which was released on May 12, 2003, and were considered and are discussed in this final rule.

12. One commenter questioned the process by which the public is informed of the availability of the proposed rule stating that they had not received notice of the publication of the rule and that it was not available in the press. The commenter further states that organizations or individuals who participate in the NEPA process should be kept informed of the progression of the process through the Draft Environmental Impact Statement, Environmental Impact Statement, Decision Notice, opportunities for appeal, and the opportunity to pursue a legal remedy.

NPS Response: On January 17, 2003, Glen Canyon issued a press release informing the public of the publication of the proposed rule in the **Federal Register** (68 FR 2466). In addition, the **Federal Register** is available to all members of the public online at any time and in libraries throughout the country. The National Park Service does not routinely notify individuals personally about stages in the rulemaking process. The National Park Service has many parties interested in the issue of PWC and relies on local and national media and the National Recreation Area's website to provide notification of various milestones included in planning, environmental compliance, and rulemaking to interested parties.

Comments Related to Consultation and Coordination

13. One commenter requested that the National Park Service include all of Bluewater Network's previous letters and correspondences sent to Glen Canyon concerning PWC activity in the administrative record for the rule.

NPS Response: The "Methodology and Purpose" section at the beginning of volume 2 of the Final Environmental Impact Statement provides a detailed explanation of how public comments were received, reviewed, and ultimately