recognizes that all property, rights, titles, interests, and claims of both Pueblos were consolidated under the Pueblo of Jemez.

Further evidence supporting a shared group identity between the Pecos and Jemez pueblos emerges in numerous aspects of present-day Jemez life. The 1992-1993 Pecos Ethnographic Project (unrelated to NAGPRA) states: ''[T]he cultural evidence of Pecos living traditions are 1) the official tribal government position of a Second Lieutenant/Pecos Governor; 2) the possession of the Pecos Pueblo cane of office; 3) the statue and annual feast day of Porcingula (Nuestra Senora de los Angeles) on August 2; 4) the Eagle Watchers' Society; 5) the migration of Pecos people in the early nineteenth century; 6) the knowledge of the Pecos language by a few select elders.'' (Levine 1994:2-3)

Based on the above mentioned information, officials of the Peabody Museum of Archaeology and Ethnology and the Robert S. Peabody Museum of Archaeology have determined that, pursuant to 43 CFR 10.2 (d)(2)(ii), these 488 cultural items are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of an Native American individual. Officials of the Peabody Museum of Archaeology and Ethnology and the Robert S. Peabody Museum of Archaeology have also determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these items and the Pueblo of Jemez.

This notice has been sent to officials of the Apache Tribe of Oklahoma, the Comanche Tribe of Oklahoma, the Hopi Tribe, the Jicarilla Apache Tribe, the Kiowa Tribe, the Mescalero Apache Tribe, the Navajo Nation, Pueblo of Cochiti, the Pueblo of Jemez, Pueblo of Santo Domingo, the Pueblo of Zuni, and the Wichita and Affiliated Tribes. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these objects should contact Barbara Issac, Repatriation Coordinator, Peabody Museum of Archaeology and Ethnology, 11 Divinity Ave., Cambridge, MA 022138; telephone (617) 495-2254; or James W. Bradley, Director, Robert S. Peabody Museum of Archaeology, Phillips Academy, Andover, MA 01810; telephone: (978) 749–4490 before November 12, 1998. Repatriation of these objects to the Pueblo of Jemez may begin after that date if no additional claimants come forward.

Dated: October 2, 1998.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

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BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

4.5 Foot Spillway Gate Extensions, Glen Canyon Dam

AGENCY: Bureau of Reclamation, Interior.

ACTION: Decision to postpone installation.

SUMMARY: Based upon recommendations from the Adaptive Management Work Group (AMWG), the Secretary of the Interior has decided to postpone the permanent installation of the 4.5 foot spillway gate extensions on Glen Canyon Dam. During this postponement, the operation of the dam, as stated in the Record of Decision, shall be in accordance with the Annual Operating Plan (AOP) process and shall not include the reservation of storage to compensate for space that would have been created by the installation of the spillway gate extensions.

SUPPLEMENTARY INFORMATION: Since large dam releases have significant impacts on downstream resources, the Glen Canyon Dam Environmental Impact Statement (GCDEIS) contained recommendations on restricting the frequency of large releases above powerplant capacity, citing two options for controlling such releases. The Record Of Decision (ROD) for the GCDEIS selected the option of installing spillway gate extensions rather than the option of providing a greater vacant storage space buffer to reduce the frequency of powerplant bypasses.

GCDEIS and Grand Canyon Protection Act (GCPA) Conclusions Regarding Powerplant Bypasses

The majority of the Glen Canyon Environmental Studies (GCES) Phase 1 research work took place in the mid-1980's, when the releases from Glen Canyon Dam were at an all time high since the construction of the dam. These flood flows were radically different than historic releases and caused such large downstream effects that they greatly influenced the GCES recommendations. On page 83 of the final GCES Phase 1 report, the first and foremost conclusion was that ''Adverse downstream consequences are caused primarily by sustained flood releases significantly greater than powerplant capacity and by fluctuating releases'', noting the erosive effect of floods on sand deposits and vegetation. Generally, these conclusions suggested the elimination or reduction of flood flows.

In the committee report accompanying the GCPA legislation, the Congress continued this thinking on adverse impacts by stating that ''Flood releases from the dam erode beaches used by recreational rafters and campers. The river's now reduced sediment loads are inadequate to replenish beaches, even if flood releases occur once every twenty years. Flood releases destroy riparian vegetation and birds.'' The Act did not specify remedial measures, but seemed to imply that even the aggressive spill avoidance strategy that had been implemented to reduce spill frequency might be insufficient.

These conclusions produced the GCDEIS decision to reduce the return period of powerplant bypasses above 45,000 cfs to no more than an average of 1 in 100 years. The option of installing the spillway gate extensions was selected as part of the preferred alternative instead of the option of targeting an additional 750,000 acre-feet of vacant storage space when the reservoir filled in July. The extensions were determined to be 4.5 feet in height, in contrast to the 8-foot high extensions installed during 1983. Additional questions about the need to reduce the frequency of powerplant bypasses and the desired magnitude and impacts of sustained high releases during extreme flood years now provide impetus to re-examine the original decision that an additional 750,000 acre-feet of vacant storage space is needed through the installation of the gate extensions.

The Evolution of Understanding Regarding High Releases

Despite the enormous beaches created by the 1983 spill event, the general thinking at that time was that there was a very limited supply of sediment below Glen Canyon Dam and that spills destructively moved much of this sediment out of the Grand Canyon. During the high flow years of 1984–1986, the main channel sediment storage was likely much lower than prior to 1983, and the deposition rate during the 1984–1986 spills was lower as a result. Sediment experts then believed that the river downstream of the dam was in a sediment-starved condition. Sediment supply thus became one of the primary driving

forces behind ecological recommendations for changing powerplant operations.

Based upon continuing research, including evaluation of the Beach Habitat Building Flow (BHBF), sediment researchers now believe that flood flows counteract the possible adverse impacts that fluctuations have on beach erosion, thus rebuilding the deposits that would eventually slough back into the eddies, regardless of the nature of the powerplant operations. Some suggested that more frequent floods could allow higher levels of fluctuations.

The Agreement Contained in the 1996 AOP

With this evolving positive view towards spills, a desire for a test of the GCDEIS BHBF was expressed by the Transition Work Group beginning in 1994. The Basin States strongly opposed this request for a purposeful powerplant bypass because the 1968 Colorado River Basin Project Act requires avoiding anticipated spills, interpreted as powerplant bypasses. This opposition created an impasse that blocked such a test.

Additional discussions between members of the Transition Work Group and the Basin States resulted in a proposal for a modification of the GCDEIS preferred alternative, that of moving BHBF from years of low reservoir conditions (when spills would not be required for hydrologic reasons) to years of high reservoir conditions and high inflows. Thus a BHBF would occur in years when there was an expectation of having a hydrological induced spill. This agreement was institutionalized in the 1996 AOP for the Colorado River and signed by the Secretary of the Interior in December 1995. A subsequent BHBF test was conducted in April 1996, confirming the hypothesis that high flows could rebuild sandbar deposits. In December 1996, the GCDEIS Record of Decision was assigned by the Secretary of the Interior and included this modification to the preferred alternative.

Impacts of Using Spillway Gate Extensions

GCDEIS Expectations Related To Spillway Gate Extensions

The Colorado River Simulation System (CRSS) modeling,which formed the hydrologic basis for many of the GCDEIS decisions, determined that bypasses were rare events, and if a small amount of buffer space were provided, releases greater than 45,000 cfs could be avoided. Since it uses a monthly time step, the CRSS model could not really estimate the peak bypass release other than to average the release over the month in which it occurred. Thus some judgment was used in estimating the frequency of releases greater than 45,000 cfs.

The Limited Value of the Spillway Gate Extensions

The GCDEIS commitment to install the 4.5-foot extensions would produce about 750,000 acre-feet of surcharge storage space above the normal maximum water surface of 3700 feet. While this is a large amount of reservoir space, it is small in comparison to either average April—July inflow which is about 7.8 MAF or the 2.1 MAF forecast error term for June 1 (5 percent exceedence level). A buffer of this size would affect primarily moderately high years in which bypasses were on the range of several hundred thousand acre-feet. Such bypasses could be reduced or eliminated entirely by storing the excess inflow behind the gate extensions until it could be released through the powerplant.

Inflow volumes of extremely high inflow years such as 1983 or 1984 had return periods of about 1 in 100 years. These are the types of years which would produce releases in excess of 45,000 cfs, perhaps for an extended period of time as occurred in 1983. The volume of bypasses in these types of years are very large, 3.4 MAF in 1983 and 1.0 MAF in 1984. The greatest determining factor in the amount of bypass is the forecast error associated with high inflow years.

In contrast, moderately high inflow years such as 1985, 1986, and 1995 would cause bypasses of about 100,000 to 800,000 acre-feet using current operating practices. These bypass volumes could be released through the outlet tubes in 3 to 25 days, thus limiting total releases to 45,000 cfs or less. During these types of years, it would be very unlikely that use of the spillways would be required.

The Need to Reduce the Frequency of Powerplant Bypasses

Current thinking among sediment experts is that, given high flow conditions resulting from large runoff years, releases above 25,000 cfs should be preceded by BHBFs. The BHBF should be greater in magnitude than the highest expected future release. This not only moves sediment higher on beaches away from future releases, but also coarsens the main channel bed which reduces future sediment transport. Some sediment experts believe that there is sufficient regeneration of main channel sediment supplies to allow BHBFs in all years that such events would be allowed by the 1996 agreement, even every year if possible. Longer duration spills may have different effects than the short duration BHBFs, so additional sediment transport modeling would help clarify the allowable frequency of such spills.

The Positive Value of the Spillway Gate Extensions

Although the extensions are not required to limit spillway use to the 1 in 100 year return period cited in the GCDEIS, some limited value can be gained from their installation during years in which peak releases would be less than 45,000 cfs. In these cases, if the total bypass volume was expected to be 750,000 acre-feet or less, then the entire expected bypasses could be stored behind the extensions and released later in the summer. This might produce some environmental benefits by not releasing greater than 30,000 cfs if such releases would cause ecological harm. However, it would also carry the dam safety risks associated with purposefully storing more water in the reservoir than was assumed during the design of the spillways. If an extremely rare high inflow event occurred, it could conceivably overtop the dam, even with full use of the spillways.

It appears from this discussion, that only inflow years with a return period of about 1 in 100 years would force the use of the spillways and release more than 45,000 cfs. Reclamation believes that current operating practices under the AOP would initiate high powerplant releases and bypasses early enough as required to safely operate the dam, thus meeting the intent of the GCDEIS provision without requiring either the additional storage buffer or the spillway gate extensions.

Decision

Based upon the analysis and comments received from the AMWG the Secretary of the Interior has decided to postpone permanent installation of the 4.5 foot spillway gate extensions. During the postponement period, operation of the dam, as stated in the Record of Decision, shall be in accordance with the AOP process and shall not include reservation of storage to compensate for that space that would have been created by the gate extensions. Also, Reclamation will report annually to the technical Work Group and AMWG on the effect of not installing the gate extensions on: (1) The probability of meeting BHBF triggering criteria and (2) the probability of limiting spills greater than 45,000 cfs to a 1 in 100 frequency.

Dated: October 6, 1998.

R. Steve Richardson,

Acting Commissioner, Bureau of Reclamation.

[FR Doc. 98–27345 Filed 10–9–98; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 96–18]

Alan L. Ager, D.P.M.; Revocation of Registration

On December 13, 1995, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Alan L. Ager, D.P.M., (Respondent) of Nicasio, California, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, AA5561243, and deny any pending applications for renewal of such registration as a practitioner under 21 U.S.C. 823(f), for reason that his continued registration would be inconsistent with the public interest pursuant to 21 U.S.C. 824(a)(4).

By letter dated January 17, 1995, Respondent filed a request for a hearing, and following prehearing procedures, a hearing was held in San Francisco, California on December 10 and 11, 1996, before Administrative Law Judge Mary Ellen Bittner. At the hearing, the Government called witnesses to testify and introduced documentary evidence, however Respondent did not introduce any evidence. After the hearing, the Government was the only party to submit proposed findings of fact, conclusions of law and argument. On April 6, 1998, Judge Bittner issued her Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision, recommending that Respondent's DEA Certificate of Registration be revoked. Neither party filed exceptions to her decision, and on May 8, 1998, Judge Bittner transmitted the record of these proceedings to the Acting Deputy Administrator.

The Acting Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Acting Deputy Administrator adopts, in full, the Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision of the Administrative Law Judge, and his adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, or of any failure to mention a matter of fact or law.

The Acting Deputy Administrator finds that Respondent is registered with DEA as a practitioner to handle controlled substances in Schedules II–V. The only controlled substance at issue in these proceedings is marijuana which is a Schedule I controlled substance.

On September 2, 1993, DEA and state law enforcement agents participated in the eradication of marijuana at several previously identified sites in Marin County, California. Thereafter, the agents conducted an aerial surveillance of Respondent's property since there was intelligence information that marijuana was being grown there and one of the state agents wanted to determine the general layout of the property for future thermal imaging. While flying over Respondent's property, the agents saw marijuana growing in a shed-like structure on the property that had a semitransparent roof. The agents identified the marijuana plants due to their distinctive brilliant green color.

A search warrant was obtained and executed at Respondent's property on September 2 and 3, 1993. The search revealed 317 marijuana plants in the shed-like structure, 712 marijuana plants in a barn-like structure, and 150 marijuana plants in a structure that was constructed with bales of hay and a white plastic sheeting roof, for a total of 1,719 marijuana plants. The agents also discovered electrical lines and fans in the haystack structure. Fans are used to facilitate the movement of carbon dioxide to the plants which encourages growth and to simulate wind which encourages stronger stalks. In addition, the agents found 75 high intensity discharge lamps in the barn. Lamps such as these are used to simulate sunlight and to facilitate the growth of the plants.

The power company was called to the property to turn off the electricity, and an inspection revealed two illegal electrical bypasses. The power company estimated the electricity stolen via the bypasses was worth $421,000.00, including interest.

A search of Respondent's residence revealed a 30-gallon garbage can containing ''shake'' material (the stalks and stems from marijuana plants), a plastic container of ground marijuana leaves, marijuana residue on a desk, half-smoked marijuana cigarettes in an ashtray, several boxes of rolling paper, several books on marijuana cultivation, a 12-gauge shotgun and $12,000.00 cash. The agents also found a key to the barn on Respondent's person.

During the execution of the search warrant, one of the agents interviewed Respondent's ex-wife. She stated that Respondent had been growing marijuana at his residence for 14 years; that the bulk of the family income came from marijuana sales; and that a friend of Respondent's hooked up the electrical bypasses.

Random samples of the plants were taken from all three buildings and analyzed. All of the samples were found to contain marijuana.

On September 22, 1993, Respondent was indicted in the United States District Court for the Northern District of California and charged under 21 U.S.C. 841(a)(1) with manufacturing and possessing marijuana with intent to distribute. On January 31, 1995, a Superseding Information charged Respondent with structuring currency transactions in violation of 32 U.S.C. 5324(3) and 5322(a). Specifically, the Information charged that Respondent did ''structure and assist in structuring * * * currency transactions with one or more domestic financial institutions, by causing approximately $129,100.00 in currency (all of which constituted the proceeds of marijuana trafficking) to be deposited in, exchange and credited to bank accounts at various banks * * *.'' Pursuant to a plea agreement, Respondent pled guilty to currency structuring and agreed to forfeit $129,100.00. On April 25, 1995, Respondent was convicted of the charge and was placed on probation for a term of three years, ordered to forfeit $129,000.00, ordered to perform 600 hours of community service, and fined $10,000.00.

On August 19, 1996, a local deputy sheriff participated in an aerial overflight of Respondent's property. He identified marijuana plants due to their distinctive green color. The plants were growing at the bottom of a slope on the property. Two subsequent flyovers by the deputy sheriff and others confirmed the deputy's opinion that marijuana was growing on Respondent's property. On September 11, 1996, a search warrant was executed at Respondent's property which revealed a total of 135 marijuana plants. These plants were subsequently analyzed which confirmed that the plants were marijuana. A search of Respondent's residence revealed dried marijuana and ''shake'' material.

On September 16, 1996, Respondent was charged in a criminal complaint with violation of California Health and Safety Code Section 11358, a felony, for the willful and unlawful planting, cultivating, harvesting, drying and processing of marijuana. There is no evidence in the record of these