

**Bureau of Reclamation Releases Final Environmental Assessment
For Lake Berryessa Recreation Areas Development: Reverses Previous Catch-22 Process
(2018)**

After Reclamation cancelled the contract with Pensus in 2012, there was such an uproar that Reclamation created the Community Forum and started planning for a new bid prospectus to replace Pensus. They acknowledged the problems with the previous process and agreed to be more supportive in their efforts to structure the next bid prospectus to be released in 2015. For example, they created temporary concession contracts for three recreation areas: Steele Canyon, Spanish Flat, and Putah Canyon.

Between September, 2013 and January, 2014 Reclamation prepared a Market Development Plan, Conceptual Site Plans, Conceptual Designs, and Potential Market Demand and Financial Feasibility Analysis for five concession areas.

Additionally Reclamation agreed to prepare environmental assessments (EA) for each of the areas. This was to avoid the big problem of the required environmental studies causing serious delays in the development process. When a new concessioner won a contract, they were still faced with the onerous task of doing the environmental analysis before starting construction.

The EA process was a major stumbling block for Pensus since Reclamation did everything possible to make the process as complex and bureaucratic as possible. See story below - Catch-22: The Bureaucratic Double Bind Theory in Practice (May 2012)

But in 2015 Reclamation agreed to do most of this Environmental Assessment work itself ahead of time. Reclamation's goal was to prepare Environmental Assessments, especially those needed for infrastructure construction, up to a sixty percent completion level, so the new concessioner could start rebuilding immediately. The release of the EA includes such a report in Appendix D: Final 60% Design Geotechnical Engineering Report (CDM Smith 2015).

In January, 2014, Reclamation held a public workshop to gather input on the Preliminary Draft Conceptual Site for Steele Canyon, Spanish Flat, Berryessa Point, Monticello Shores, and Putah Canyon Recreation Areas. The Environmental Assessment work was basically completed before and during the last abortive bid concession attempt in 2015, but never published.

Reclamation released the Concession Bid Prospectus in July, 2015. That failed bid process, which resulted in no "acceptable" bids, generated the present efforts to get the county to take over management of the lake Recreation Areas through a Managing Partner Agreement.

The release, finally, of this Environmental Assessment (EA) explicitly supports the county's negotiation process with Reclamation to develop a Managing Partner Agreement (MPA). The Final EA is available at

www.usbr.gov/mp/nepa/nepa_projdetails.cfm?Project_ID=29586.

It includes several relevant sections.

Project Details

Title: Lake Berryessa Recreation Areas Development

Summary: The Bureau of Reclamation proposes re-developing recreation facilities and ancillary infrastructure at five recreational areas (RAs) at Lake Berryessa in






accordance with the Visitor Services Plan/Future Recreation Use and Operation of Lake Berryessa Environmental Impact Statement (VSP EIS) and VSP Record of Decision. Future concessionaires would have opportunity to propose to Reclamation the designs, numbers and precise locations of entry stations, marinas, boat launches, campgrounds, lodging units, RV campsites, day use amenities and other conceptual elements associated with development of recreational facilities at five discrete areas from north to south: Putah Canyon, Monticello Shores, Berryessa Point, Spanish Flat and Steele Canyon. Reclamation considered various levels of development during its planning process and refined the conceptual site plans based on a market assessment, a financial feasibility evaluation and input received from the public during the planning process.

Status: 01/10/2018

Final documents posted. Appendix D and E available upon request.

List of Available Reports

File	Report Title	File Ext	File Size
	FONSI - Lake Berryessa Recreational Development	.pdf	302,690 B
	Final EA - Lake Berryessa Recreation Areas Development	.pdf	2,846,796 B
	Final Appendix A - Scoping Process	.pdf	6,339,858 B
	Final Appendix B - Design Information	.pdf	122,650 B
	Final Appendix C - Site Plans and Infrastructure Design	.pdf	1,258,313 B
	Final Appendix F - Biological Resources Information	.pdf	2,270,859 B
	Final Appendix G - Soils Information	.pdf	761,722 B
	Final Appendix H - Representative Photographs	.pdf	1,265,236 B

	Draft EA, Lake Berryessa Recreation Areas Development	.pdf	3,990,838 B
	Appendix B, Draft EA, Lake Berryessa Recreation Areas Development	.pdf	127,749 B
	Appendix C, Draft EA, Lake Berryessa Recreation Areas Development	.pdf	1,249,297 B
	Appendix F, Draft EA, Lake Berryessa Recreation Areas Development	.pdf	2,460,787 B
	Appendix G, Draft EA, Lake Berryessa Recreation Areas Development	.pdf	808,752 B
	Appendix H, Draft EA, Lake Berryessa Recreation Areas Development	.pdf	1,291,493 B

“Reclamation intends to initiate a managing partner agreement (MPA) for management of concession areas at Lake Berryessa. The managing partner would be responsible for awarding and managing contracts for the development and operation of concession areas to commercial concession contractors. Throughout this EA the terms “concessionaire” or “concessionaires” means either or both the managing partner or the commercial concession contractor. The target goal for initiating a managing partner agreement is spring of 2018.”

“This EA provides documentation to assist Reclamation in determining whether to prepare an Environmental Impact Statement (EIS) or a Finding of No Significant Impact (FONSI) for the action alternative described in Chapter 2 (i.e., “proposed action”).”

“At this time, Reclamation is seeking to authorize installation of infrastructure that is ready to be constructed (i.e., sixty percent designs are ready to finalize for construction purposes, and adequate site-specific environmental analysis has been completed).”

“The EA analyzes the impacts of the proposed action and no-action alternative. Implementation of the proposed action would result in overall minimal impacts on the environment because most facilities and infrastructure would be located in previously disturbed areas.”

“Standard construction measures and best management practices (BMPs) would be implemented during all construction activities to avoid or minimize environmental impacts, and mitigation measures are identified in the EA to further reduce potential adverse impacts. Cumulative impacts of the proposed action and other projects at Lake Berryessa would also be minimal through implementation of BMPs and project-specific mitigation measures. The proposed action would comply with federal environmental statutes and other authorities. Table S-1 summarizes the anticipated environmental consequences of the conceptual site plans and infrastructure plans and lists measures that would ensure minimal impacts.”

Lessons from 2012 - How Far We Have Come

Although the latest generation of the Bureau of Reclamation appears to be moving in the right direction for the benefit of Lake Berryessa, it is instructional to review what the previous generation

was like. The following story from the Lake Berryessa News illustrates the unexpected problems that Pensus faced after it signed a contract with Reclamation in 2010. Pensus prepared a perfectly adequate (and expensive) Environmental Assessment which was nitpicked to bits by so-called government experts. It seems that everything Pensus proposed was obstructed by Reclamation bureaucrats (who subsequently either retired, resigned, or were promoted out of the area).

Never Forget!

Catch-22: The Bureaucratic Double Bind Theory in Practice (May 2012)

The series of actual emails below is emblematic of the dysfunctional approach the Bureau of Reclamation is taking to any actions proposed for the redevelopment of Lake Berryessa. The resorts have existed for more than 50 years. No items of cultural or historical importance have ever been discovered within the resorts or at Oak Shores or other Bureau-maintained facilities.

Reclamation demolished more than 1,000 mobile homes and resorts facilities, and is still digging and scraping away at the remaining residue, without any substantive environmental or historical studies to support their actions. They simply filled out a short form called CEC 743, which was approved on October 11, 2007 concluding:

“Reclamation has determined that the proposed action is appropriate for Categorical Exclusion under the National Environmental Policy Act 011969 (42 United States Code [U.S.C.] 4321, et seq.) based on the following information: The removal of all existing trailers and associated appurtenances within existing and developed sites at Lake Berryessa resorts involves only minor construction activities on previously disturbed land and there will be no impacts to waters of the United States.

Further, Reclamation has reviewed the proposed action and determined that there is no effect to Federally-listed species or critical habitat. A consultation with the State Historic Preservation Office has concluded that there are no affects to cultural resources under Section 106 of the National Historic Preservation Act.”

Now the BOR wants detailed studies for any action taken by Pensus, even digging a hole for a power pole, moving fence posts originally hammered in by Reclamation to eliminate dozens of campsites from use, and just about anything else. They even deny approval of the same type of Categorical Exclusion they used themselves to undertake massive demolition and ground disturbance over hundreds of acres of shoreline.

No wonder the Pensus project manager below may want to call himself Captain Yossarian when dealing with the Bureau of Reclamation. For those of you who remember the book and movie, Catch-22, we truly find ourselves in a “Catch-22” situation at Lake Berryessa! One bureaucratic justification for Catch-22 actions from the book is:

“Catch-22 states that agents enforcing Catch-22 need not prove that Catch-22 actually contains whatever provision the accused violator is accused of violating.”

This directive seems to perfectly encapsulate the local Reclamation approach and conduct. The project referred to in the email chain below is the simple digging of a couple of trenches. Read it to believe it!

From Reclamation, May 25, 2012: Thank you for your email. Your revised project statements of May 18, 2012 have been received at both Lake Berryessa and CCAO offices (May 23rd, 2012). As of today they have been routed for review of administrative sufficiency, followed by technical and environmental review. I have requested a time estimate for completion by the review team and should be able to provide a response to your question by COB Weds. May 30th (considering staff availability due to the Holiday weekend).

From Reclamation, May 29, 2012: I spoke with staff today as they work through their review of the revised project statements for your project. It appears there are still some questions regarding some details of the proposed project. My engineer will have his comments prepared by Thursday mid-morning. I propose a brief meeting to discuss the questions, followed by your providing a written response on the comment form we provided or other form best suited. Once all comments have been addressed, the NEPA evaluation will continue to the stage of cultural review by the Mid-Pacific Region and then State Historical Preservation Officer (SHPO). I am told we should expect a timeframe of 90 days or less for cultural review and concurrence by SHPO.

From Pensus Project Manager, May 29, 2012: Thanks for the update. When we last spoke, when the subject of NEPA / SHPO came up, I pointed out that all of the testing would effectively be performed in areas previously disturbed during the preceding 50 years of use under the former concession contracts. I thought that our discussion at that time had reached at least a tentative consensus on the conditions.

Our application includes a request that the USBR issue a Categorical Exclusion for this work, similar to numerous instances of minor work operations categorized previously by your office. I respectfully request that the nature of the work to be undertaken as well as the fact that the area has already been thoroughly disturbed be considered before launching into another lengthy period of review.

From Reclamation, May 30, 2012: I know that you and others at your company have stated that you believe the previous disturbance in the concession areas warrants relief from further review of cultural resources. I am not able to concur with this, nor have I in the past, because it is a matter of Federal and State law, and it is not my role to determine how the laws are to be implemented by Reclamation.

My role is to obtain complete project descriptions for concession development activities and pass them to the appropriate staff in Reclamation for compliance with NEPA/NHPA. Staff specialists review the project description and other documentation, determine what level of NEPA and NHPA analysis is required and initiate that process. If significant ground disturbance will occur from the project, then it will normally require review by SHPO. The review time required by SHPO is not within Reclamation's control. Understanding this planning process and the timeframes required is key to successful project management, which is why we have provided you with flowcharts and NEPA process information.

I understand your wish to expedite this project and will do everything I can to assist in getting it approved. Having a completed cultural survey as you initially set out to do would have significantly streamlined this and other projects. In the absence of that survey, each project will have to be individually evaluated for NEPA/NHPA compliance.

From Pensus Project Manager, May 30, 2012: I still have no official word on the status of the Project Statements themselves, but given the tone of this communication I am not expecting anything less than another re-write. At this rate, even with a perfect Project Statement, we will be denied permission to undertake even the most basic of testing for another three – four months. If this is the best that can be done for something this simple, I can only guess how difficult a real building project will be to obtain approval. Aka: Capt. Yossarian

“Catch-22 says they have a right to do anything
we can't stop them from doing.”

Did You Hear the One About...

...how many bureaucrats it takes to screw in a light bulb? No, not that one – the one about how many BOR officials it takes to dig a one-foot diameter hole only four feet deep? Witnesses at Chaparral Cove last month say it was four – and it took six hours! The hole was for a PG&E pole. They would dig six inches down, then sift the dirt for Native American artifacts.

As silly as this may seem to some, there is often a good reason (and some legal requirements) to exercise care when excavating in areas that may potentially contain Native American cultural artifacts. But from a scientific point of view, the areas inside the resort boundaries, and even areas outside them, are not of significant cultural value.

This excessive bureaucratic oversight is not justified based on previous archeological studies done above the 440 foot lake level. Native Americans in the Berryessa Valley lived principally along Putah Creek, not 440 feet above it. When farmers plowed the fields in the Berryessa Valley before the dam was built, they would uncover so many primitive artifacts (simple bowls and scraping tools) they would lay them along the banks of Putah Creek to prevent erosion.

Any delays in redevelopment, such as requiring hours to dig a hole, are just nonsensical academic exercises for the Reclamation participants. Especially considering Reclamation approved the "grind it to the ground" approach originally.