

CFR part 162 and provide for an environmental review process that meets requirements set forth in the HEARTH Act. This notice announces that the Secretary, through the Assistant Secretary—Indian Affairs, has approved the Tribal regulations for the Pueblo of Santa Clara, New Mexico.

II. Federal Preemption of State and Local Taxes

The Department's regulations governing the surface leasing of trust and restricted Indian lands specify that, subject to applicable Federal law, permanent improvements on leased land, leasehold or possessory interests, and activities under the lease are not subject to State and local taxation and may be subject to taxation by the Indian Tribe with jurisdiction. See 25 CFR 162.017. As explained further in the preamble to the final regulations, the Federal government has a strong interest in promoting economic development, self-determination, and Tribal sovereignty. 77 FR 72440, 72447–48 (December 5, 2012). The principles supporting the Federal preemption of State law in the field of Indian leasing and the taxation of lease-related interests and activities applies with equal force to leases entered into under Tribal leasing regulations approved by the Federal government pursuant to the HEARTH Act.

Section 5 of the Indian Reorganization Act, 25 U.S.C. 5108, preempts State and local taxation of permanent improvements on trust land. *Confederated Tribes of the Chehalis Reservation v. Thurston County*, 724 F.3d 1153, 1157 (9th Cir. 2013) (citing *Mescalero Apache Tribe v. Jones*, 411 U.S. 145 (1973)). Similarly, section 5108 preempts State taxation of rent payments by a lessee for leased trust lands, because “tax on the payment of rent is indistinguishable from an impermissible tax on the land.” See *Seminole Tribe of Florida v. Stranburg*, 799 F.3d 1324, 1331, n.8 (11th Cir. 2015). In addition, as explained in the preamble to the revised leasing regulations at 25 CFR part 162, Federal courts have applied a balancing test to determine whether State and local taxation of non-Indians on the reservation is preempted. *White Mountain Apache Tribe v. Bracker*, 448 U.S. 136, 143 (1980). The *Bracker* balancing test, which is conducted against a backdrop of “traditional notions of Indian self-government,” requires a particularized examination of the relevant State, Federal, and Tribal interests. We hereby adopt the *Bracker* analysis from the preamble to the surface leasing regulations, 77 FR at

72447–48, as supplemented by the analysis below.

The strong Federal and Tribal interests against State and local taxation of improvements, leaseholds, and activities on land leased under the Department's leasing regulations apply equally to improvements, leaseholds, and activities on land leased pursuant to Tribal leasing regulations approved under the HEARTH Act. Congress's overarching intent was to “allow Tribes to exercise greater control over their own land, support self-determination, and eliminate bureaucratic delays that stand in the way of homeownership and economic development in Tribal communities.” 158 Cong. Rec. H. 2682 (May 15, 2012). The HEARTH Act was intended to afford Tribes “flexibility to adapt lease terms to suit [their] business and cultural needs” and to “enable [Tribes] to approve leases quickly and efficiently.” H. Rep. 112–427 at 6 (2012).

Assessment of State and local taxes would obstruct these express Federal policies supporting Tribal economic development and self-determination, and also threaten substantial Tribal interests in effective Tribal government, economic self-sufficiency, and territorial autonomy. See *Michigan v. Bay Mills Indian Community*, 572 U.S. 782, 810 (2014) (Sotomayor, J., concurring) (determining that “[a] key goal of the Federal Government is to render Tribes more self-sufficient, and better positioned to fund their own sovereign functions, rather than relying on Federal funding”). The additional costs of State and local taxation have a chilling effect on potential lessees, as well as on a Tribe that, as a result, might refrain from exercising its own sovereign right to impose a Tribal tax to support its infrastructure needs. See *id.* at 810–11 (finding that State and local taxes greatly discourage Tribes from raising tax revenue from the same sources because the imposition of double taxation would impede Tribal economic growth).

Similar to BIA's surface leasing regulations, Tribal regulations under the HEARTH Act pervasively cover all aspects of leasing. See 25 U.S.C. 415(h)(3)(B)(i) (requiring Tribal regulations be consistent with BIA surface leasing regulations). Furthermore, the Federal government remains involved in the Tribal land leasing process by approving the Tribal leasing regulations in the first instance and providing technical assistance, upon request by a Tribe, for the development of an environmental review process. The Secretary also retains authority to take any necessary

actions to remedy violations of a lease or of the Tribal regulations, including terminating the lease or rescinding approval of the Tribal regulations and reassuming lease approval responsibilities. Moreover, the Secretary continues to review, approve, and monitor individual Indian land leases and other types of leases not covered under the Tribal regulations according to the Part 162 regulations.

Accordingly, the Federal and Tribal interests weigh heavily in favor of preemption of State and local taxes on lease-related activities and interests, regardless of whether the lease is governed by Tribal leasing regulations or Part 162. Improvements, activities, and leasehold or possessory interests may be subject to taxation by the Pueblo of Santa Clara, New Mexico.

Bryan Newland,

Assistant Secretary—Indian Affairs.

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DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR04311000; 23XR0680A3;
RX.01633F04.0020000]

Notice of Intent To Prepare an Environmental Impact Statement on the Middle Rio Grande Lower San Acacia Reach

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent; request for comments

SUMMARY: The Bureau of Reclamation (Reclamation) intends to prepare an environmental impact statement (EIS) on the Lower San Acacia Reach of the Middle Rio Grande. The project's goals are to increase water delivered to Elephant Butte Reservoir (EBR), maintain and enhance ecosystem health (such as protecting and promoting recovery of endangered species, minimizing river drying, and increasing available habitat), and increase the benefits of system maintenance actions by working with geomorphic trends of the river. Reclamation is seeking suggestions and information on the alternatives and topics to be addressed.

DATES: Submit written comments on the scope of the EIS on or before June 30, 2023.

Reclamation will hold three in-person public scoping meetings on the following dates:

1. June 20, 2023, 5 p.m. to 7 p.m. (MDT), Albuquerque, New Mexico.

2. June 21, 2023, 6 p.m. to 8 p.m. (MDT), Socorro, New Mexico.

3. June 22, 2023, 6 p.m. to 8 p.m., (MDT), Truth or Consequences, New Mexico.

ADDRESSES: Send written scoping comments, requests to be added to the project mailing list, or requests for other special assistance needs via email to bor-sha-aao-lsari@usbr.gov.

The meetings will be held at the following locations:

1. Albuquerque—International District Library, 7601 Central Ave., Albuquerque, New Mexico 87108.

2. Socorro—New Mexico Institute of Mining and Technology Macey Center, Upper Lobby, 909 Olive Lane, Socorro, New Mexico 87801.

3. Truth or Consequences—Sierra County Fairgrounds, Albert J. Lyon Event Center, 2953 S Broadway Street, Truth or Consequences, New Mexico 87901.

To view more information regarding this project, go to <https://www.virtualpublicmeeting.com/mrg-lsari-eis>.

FOR FURTHER INFORMATION CONTACT:

Ashlee Rudolph, Bureau of Reclamation, Albuquerque Area Office, 555 Broadway Blvd. NE, Suite 100, Albuquerque, New Mexico 87102–2352; telephone (505) 462–3631; email bor-sha-aao-lsari@usbr.gov.

Individuals who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services to contact the above individual during normal business hours or to leave a message or question after hours. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This Federal Register notice provides the public with information regarding Reclamation's intent to prepare an EIS pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended. Reclamation will hold public scoping meetings to solicit comments on the scope of the EIS and the issues and alternatives that should be analyzed.

Purpose and Need

Reclamation is authorized to conduct work within the channel and floodplain of the Rio Grande under the Federal Flood Control Acts of 1948 and 1950 (Pub. L. 858 and 516, respectively). Reclamation is also authorized to engage in planning for major rehabilitation and replacement of existing assets under the Reclamation Project Act of 1902 (32 Stat. 388) and supplementary acts; the Water Resources Development Act of

2007, Section 2031 (Pub. L. 110–114); the Omnibus Public Land Management Act of 2009 (Pub. L. 111–11), Title IX, Subtitle G; the Water Resources Planning Act of 1965, as amended (42 U.S.C. 1962a–2); and Department of the Interior Manual Part 707 DM 1.

The US Army Corps of Engineers, Bureau of Indian Affairs, U.S. Fish and Wildlife Service, Bureau of Land Management, Middle Rio Grande Conservancy District, and New Mexico Interstate Stream Commission will be invited to participate as cooperating agencies for the EIS. Other entities will be considered, as necessary, during the EIS process. Reclamation is considering realigning a portion of the Rio Grande from approximately river mile (RM) 74 to RM 54.5 (project, proposed action); this area is part of the Lower San Acacia Reach. Reclamation is the project proponent.

Reclamation and fellow agencies manage the flow of water, transport and deposition of sediment, and environmental resources within the highly dynamic Rio Grande watershed. Reclamation's responsibilities include maintaining the river channel for downstream sediment and water conveyance, maintaining and enhancing ecosystem health, and increasing the benefits of system maintenance actions. At times, these needs conflict with each other. The need to convey water can be at odds with overbank flooding for species' needs and riparian health. The deposition of heavy sediment loads carried by the river, a natural geomorphic process, impedes delivering flows to the EBR and increases maintenance costs. Therefore, maintenance of this system requires understanding and accepting the trade-offs associated with these diverse and often competing needs. Trade-offs associated with the proposed action or alternative actions are to be documented for Reclamation's consideration.

Reclamation and stakeholders identified the need for this project during focused workshops and a value planning study. Most issues during the workshops and value planning study identified sediment imbalance as their root cause which can be linked to agency needs and management practices being at odds with geomorphic trends. Key issues to be addressed by this project are conveyance losses, cost of maintenance on a system with limited benefit, declining of ecosystem health, channel perching, and aging Low Flow Conveyance Channel (LFCC) infrastructure.

The purpose of the proposed action is to deliver water to EBR; maintain and enhance ecosystem health (*i.e.*,

protecting and promoting recovery of endangered species, minimizing river drying, increasing available habitat, conserving ecosystem functions), which will help meet requirements under the 2016 Middle Rio Grande Biological Opinion; and increase the benefit-to-cost ratio of system maintenance actions.

Proposed Action and Possible Alternatives

Reclamation intends to realign a portion of the Rio Grande to the west of the existing channel between RM 74 and RM 54.5. Channel realignment will likely consist of multiple segments; it may not include the full distance between RM 74 and RM 54.5. Reclamation is currently considering two preliminary engineering alternatives and the no-action alternative. Reclamation will identify a preferred alternative before a final EIS. The following alternatives are preliminary and may be revised based on public input and internal considerations. The no-action alternative is currently considered Alternative A, where the existing channel between RM 74 and RM 54.5 would remain as-is.

Preliminary Alternative B would involve the construction of a single channel downstream of Bosque del Apache National Wildlife Refuge. A single channel is defined as merging the LFCC with the active river channel. Additional features may include a channel conveying inflow from Elmendorf Drain above RM 69 and secondary high-flow channels, where they are needed. The expected benefits of preliminary Alternative B are improved water delivery and sediment transport by eliminating channel perching, reduced channel incision to allow for improved low-velocity habitat for the Rio Grande silvery minnow (*Hybognathus amarus*), maintaining or promoting riparian habitat suitable for the southwestern willow flycatcher (*Empidonax traillii extimus*), and creating more effective operation and maintenance activities by focusing maintenance on a single primary channel with no levees or structures that would need to be protected from the river. Preliminary Alternative B is anticipated to reduce evaporative losses associated with the current LFCC and ponded water between RM 61 and RM 60.

Preliminary Alternative C would involve constructing a two-channel system above RM 64 and rerouting the LFCC between RM 68 and RM 64. Like preliminary Alternative B, the active river channel would be realigned to the

west; however, the realignment would start farther downstream and would not intersect the LFCC. The expected benefits of preliminary Alternative C are improved water delivery and sediment transport by eliminating channel perching, increased conveyance within the LFCC, reduced channel incision to allow for improved low-velocity habitat for the Rio Grande silvery minnow, improved management of available southwestern willow flycatcher habitat, and a potential to reduce maintenance activities associated with sediment deposition within the river channel. It is anticipated that preliminary Alternative C would also reduce evaporative losses associated with the current LFCC and ponded water between RM 61 and RM 60.

Project Area (Area of Analysis)

The project area is the Lower San Acacia Reach of the Middle Rio Grande in Socorro County, New Mexico. This EIS focus is between the southern boundary of the Bosque del Apache National Wildlife Refuge at RM 74 (upstream end) to the Silver Canyon and LFCC confluence with the Rio Grande at RM 54.5 (downstream end).

Statutory Authority and Anticipated Permits

NEPA [42 U.S.C. 4321 *et seq.*] requires Federal agencies to conduct an environmental analysis of their proposed actions to determine whether the actions may significantly affect the human environment. The EIS will analyze the environmental effects of implementing the proposed action and alternatives. In addition to NEPA, various other Federal, state, and local authorizations may be required for the proposed action. Applicable Federal laws include, but are not limited to, the Endangered Species Act, National Historic Preservation Act, and Clean Water Act.

Schedule for the Decision-Making Process

Reclamation will review and consider comments received during scoping and will prepare a scoping report. After the draft EIS is completed, Reclamation will publish a notice of availability and request public comments on the draft EIS. After the public comment period ends, Reclamation will then develop the final EIS; Reclamation anticipates making the final EIS available to the public in late 2024. In accordance with 40 CFR 1506.11, Reclamation will not decide or issue a Record of Decision sooner than 30 days after the final EIS is released. Reclamation anticipates the

issuance of a Record of Decision by March 2025.

Public Disclosure

Before including your address, phone number, email address, or other personal, identifying information in your comment submission, please be advised that the entire submission, including your personal identifying information, may be made publicly available at any time. While a commenter may request that Reclamation withhold personal identifying information from public review, Reclamation cannot guarantee that it will be able to do so.

How To Request Reasonable Accommodation

For special assistance at one of the scoping meetings, please contact Ashlee Rudolph (see **FOR FURTHER INFORMATION CONTACT** section of this notice) or TDD information in the same section, at least 5 working days before the meetings. Information regarding this project is available in alternate formats upon request.

Wayne Pullan,

*Regional Director, Upper Colorado Region,
Bureau of Reclamation.*

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INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1364]

Certain Blood Flow Restriction Devices With Rotatable Windlasses and Components Thereof; Institution of Investigation

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 24, 2023, under section 337 of the Tariff Act of 1930, as amended, on behalf of Composite Resources, Inc. of Rock Hill, South Carolina and North American Rescue, LLC of Greer, South Carolina. Supplements were filed on April 27, 2023, May 11, 2023, and May 18, 2023. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain blood flow restriction devices with rotatable windlasses and components thereof by reason of the

infringement of: certain claims of U.S. Patent No. 7,842,067 (“the ‘067 patent”); U.S. Patent No. 8,888,807 (“the ‘807 patent”); and U.S. Patent No. 10,016,203 (“the ‘203 patent”); and; U.S. Trademark Registration No. 3,863,064 (“the ‘064 mark”) and U.S. Trademark Registration No. 5,046,378 (“the ‘378 mark”). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute. The complaint also alleges violations of section 337 based upon the importation into the United States, or in the sale of certain blood flow restriction devices with rotatable windlasses by reason of trade dress infringement, the threat or effect of which is to destroy or substantially injure an industry in the United States.

The complainants request that the Commission institute an investigation and, after the investigation, issue a general exclusion order, or in the alternative a limited exclusion order, and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>.

FOR FURTHER INFORMATION CONTACT:

Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission’s Rules of Practice and Procedure, 19 CFR 210.10 (2023).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on May 24, 2023, *Ordered that—*

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended,

(a) an investigation be instituted to determine whether there is a violation of subsection (a)(1)(A) of section 337 in