

Section 4.0 Environmental Commitments

The following environmental commitments have been incorporated into the design of the proposed water delivery and treatment facilities to ensure that potential effects on the environment are avoided or minimized. Environmental commitments apply only to facilities described under the proposed action.

4.1 WATER RESOURCES

Del Webb will limit adverse effects on drainage and floodplain characteristics by complying with FCDMC permit and license requirements as they apply to uses in the floodplain and minimizing any diversions to natural surface drainages. Del Webb will design and locate the pipeline facilities to avoid areas of high erosion potential. Del Webb will also comply with the NPDES stormwater general permit and will implement a stormwater pollution prevention plan.

Del Webb will conduct pipeline siting activities in accordance with normal construction practices to minimize the potential for release of contaminants associated with construction equipment. Staging areas used for onsite storage of hazardous materials will be located at least 100 feet from the edge of a wash or other drainage feature. If construction takes place during storms, soil piles and disturbed areas near drainages will be stabilized using standard erosion control measures.

4.2 BIOLOGICAL RESOURCES

Del Webb will conduct preconstruction surveys for native plants, including saguaro and Hohokam agave, to determine whether the precise location of the water delivery facilities would result in the loss of native cacti and trees. If Del Webb cannot avoid native plants and proposes to remove them from an area, Del Webb shall provide any applicable notice to the ADA and otherwise comply with state law concerning the salvage and relocation of native plants.

Del Webb will recontour and reseed disturbed upland areas with a native seed mix appropriate for desert scrub habitat. Seasonal drainages and riparian areas within the 100-foot-wide corridor will also be reseeded with an appropriate native plant seed mix to allow natural colonization of plant species in this area. This includes re-establishing xeroriparian scrub habitat in the New River Channel to preconstruction conditions.

Del Webb will obtain and comply with any special conditions included in a Corps permit under Section 404 of the Clean Water Act for effects on jurisdictional waters of the United States. Existing wildlife water catchments near the pipeline corridor will be avoided.

Del Webb will conduct preconstruction surveys for desert tortoise burrows. If desert tortoises are found on the project site, Del Webb will follow AGFD guidelines for handling desert tortoises and will contact AGFD for recommendations and the appropriate permits to move the tortoise before construction begins. Construction of temporary shelters or burrows also could be required, depending on the number of burrows in the area.

4.3 CULTURAL RESOURCES

If cultural materials are encountered during construction or other activities associated with the proposed action, Reclamation will be notified immediately and work will be stopped until a qualified archaeologist can evaluate the find. Reclamation, in consultation with the SHPO, will require, as appropriate, the following measures if significant cultural material is present:

- complying with the NHPA, the Arizona State Historic Preservation Act of 1982, the Arizona Burial Protection Law of 1990, and the Native American Protection and Repatriation Act;
- securing an Archaeological Resources Protection Act permit from a federal land management agency (Reclamation or U.S. Bureau of Land Management);
- securing a State of Arizona Antiquities Permit from the Arizona State Museum; and
- preparing a mitigation plan in consultation with the SHPO and the ACHP, other participating parties, and the interested public.

It should also be noted that 106 consultation has been conducted for an area of potential effect that includes the pipeline as well as The Villages at Desert Hills. A Memorandum of Agreement (MOA) exists among Reclamation, the ACHP, and SHPO, which includes an historic property avoidance and treatment plan that will address the effects of the development on significant historic properties. Reclamation will ensure that the treatment plan is implemented (Appendix G).

4.4 AIR QUALITY

Del Webb will obtain all necessary permits in compliance with all applicable regulations of Maricopa County Environmental Services, Department of Air Pollution Control. Del Webb will also apply dust suppression measures in accordance with Maricopa County Rule 310 for Fugitive Dust to control excessive particulate matter emissions generated from construction and operational activities in the pipeline corridor.

4.5 TRAFFIC AND CIRCULATION

Del Webb will incorporate a traffic control plan for all road crossings into the proposed water delivery facilities design and construction plans. The traffic control plan will be coordinated with MCDOT and ADOT, and standards of the local jurisdiction will be followed during construction. Elements of the traffic control plan could include:

- coordinating with state and local jurisdictions regarding hours of construction and lane closures that would minimize construction impacts on roadways;
- obtaining easements or encroachment permits from local agencies and ADOT, as necessary;
- providing for detours or ensuring that at least one traffic lane remains open along affected roadways, and minimizing lane closures during the peak a.m. and p.m. commute hours;
- specifying types and locations of warning signs, lights, and other traffic control devices;
- providing access for driveways and private roads; and
- notifying and consulting with emergency service providers to ensure that adequate emergency access is maintained.

Del Webb will restore all road surfaces affected by pipeline construction to original conditions and shall coordinate with Maricopa County to ensure that appropriate truck routes are used.

4.6 LAND USE AND VISUAL RESOURCES

Del Webb will ensure that the appropriate easements and ROW clearances are obtained from the Arizona State Land Department, U.S. Bureau of Land Management, Arizona Department of Transportation, Maricopa County Department of Transportation, and Arizona Public Service before

beginning construction to ensure that no ROW or easement conflicts would result from construction of the pipeline. Additionally, provisions will be made to prevent livestock from falling into the trenches during construction (e.g., temporary fencing).

Section 5.0 Consultation and Coordination

5.1 RELATED LAWS, RULES, REGULATIONS, AND EXECUTIVE ORDERS

Clean Water Act

The Clean Water Act strives to "restore and maintain chemical, physical, and biological integrity of the Nation's water". The goals of the act are achieved through a system of water quality standards, discharge limitations, and permits. If the water quality of a water body is potentially affected by a proposed action, an NPDES permit may be required. If a project may result in the placement of material into waters of the United States, a Corps dredge-and-fill permit (Section 404) may be required. The Section 404 permit may also apply to activities in wetlands and riparian areas. Del Webb has submitted an individual permit application to the Corps for the discharge of fill material into waters of the United States related to pipeline construction, as well as development of The Villages.

Before either an NPDES or a Section 404 permit is issued, a water quality certification must be obtained from the Arizona Department of Environmental Quality.

Clean Air Act

A key purpose of the Clean Air Act (CAA) is to "protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population." The act requires the Environmental Protection Agency (EPA) to publish national primary standards to protect public health and more stringent national secondary standards to protect public welfare (40 CFR 50). States and local governments are responsible for the prevention and control of air pollution. Provision of settlement water under the Option and Lease Agreement and subsequent construction and operation of water delivery facilities would not exceed either primary or secondary CAA standards and does not require a conformity determination.

Endangered Species Act

The ESA provides protection for animal and plant species in danger of extinction (endangered) and those that may become so in the foreseeable future (threatened). Section 7 of the ESA requires federal agencies to ensure that all federally associated activities in the United States would not have adverse impacts on the continued existence of threatened or endangered species or on designated areas that are important in conserving those species. Action agencies must consult with the USFWS to determine the potential impacts that a project may have on protected species. A BA was prepared (see Appendix D) that covers direct effects of the pipeline project and cumulative impacts that could result from The Villages development plan, as required by the ESA. The BA concludes approval of the Option and Lease Agreement will not affect federally listed species. It further concludes no cumulative impacts from the development of The Villages are anticipated. A copy of the BA was provided to the USFWS at their request and was not contested during the 30-day review period. No further consultation was required. All of the requirements of the ESA have been met for the proposed action.

National Historic Preservation Act

The NHPA establishes Federal law and policy for the protection of significant historic properties, including prehistoric archaeological sites, buildings, and traditional cultural places. Specifically, each Federal agency shall identify and take into account the effect of an undertaking on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register of Historic Places.

For the purpose of fulfilling the requirements of Section 106 of the NHPA, the "area of potential effect" includes the proposed pipeline corridor, water treatment plant, and The Villages at Desert Hills development, which is consistent with 36 CFR Part 800 (Protection of Historic Properties). No historic properties were identified within the pipeline or treatment plant impact areas. Thirteen archaeological sites were identified within the property boundary of The Villages. All were evaluated for their eligibility for listing on the NRHP; six were recommended for inclusion on the NRHP (SWCA 1994b).

Reclamation has had extensive communication (including field visits) with the ACHP, SHPO, Indian tribes, and other affected federal and state agencies. Reclamation, with SHPO concurrence, has determined that six archaeological properties are eligible for listing on the National Register of Historic Places, and has recommended a historic property avoidance and treatment plan as part of an MOA among Reclamation, the ACHP, and SHPO (Appendix G). All parties have agreed with stipulations presented in the treatment plan and MOA. Del Webb will comply with provisions of the treatment plan. Execution of an MOA among Reclamation, the ACHP and the SHPO indicates Reclamation's satisfaction of its historic resource identification, evaluation and mitigation obligations.

Executive Order 11988, Floodplain Management

Executive Order 11988 requires a construction agency to “avoid to the extent possible the long- and short-term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct and indirect support of floodplain development wherever there is a practicable alternative” within the 100-year floodplain.

The purpose of this directive is to avoid, where practicable alternatives exist, the short- and long-term adverse impacts associated with floodplain development. In carrying out their responsibilities, federal agencies are required to reduce the risk of loss due to floods; minimize the impact of floods on human safety, health, and welfare; and restore and preserve the natural and beneficial values served by floodplains. Del Webb would comply with any FCDMC permit or license requirements issued regarding activities in the floodplain (see Section 4.0). Pipeline construction would require extending the pipeline corridor across a number of seasonal drainages and the New River channel. No adverse effects of the proposed action on floodplain conditions are anticipated to occur.

Executive Order 11990, Wetlands

Executive Order 11990 requires a construction project/company to “avoid to the extent possible the long- and short-term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative. . . .”

Federal agencies, in carrying out their land management responsibilities, are to take action that will minimize the destruction, loss, or degradation of wetlands, and take action to preserve and enhance the natural and beneficial values of wetlands. Each agency shall avoid undertaking or assisting in wetland construction projects unless the head of the agency determines that there is no practicable alternative to such construction and that the proposed action includes measures to minimize harm. Del Webb intends to avoid one possible wetland area near the proposed pipeline corridor and to obtain and comply with the requirements of a Corps 404 permit for activities occurring in jurisdictional waters of the United States (see Section 4.0).

Executive Order 12898, Environmental Justice

Executive Order 12898 requires federal agencies to identify and address disproportionately high and adverse human health and environmental effects of federal programs, policies, and activities on minority and low-income populations. Federal agencies are directed to ensure that federal programs or activities do not result, either directly or indirectly, in discrimination on the basis of race, color, or national origin. Federal agencies are required to provide opportunities for input in the

NEPA process from affected communities and to evaluate significant and adverse environmental effects of proposed federal actions on minority and low-income communities during preparation of federal environmental documents. No minority or low-income populations would be adversely affected by provision of settlement water under the Option and Lease Agreement or construction and operation of proposed water delivery facilities.

Farmland Protection Policy Act

The U.S. Natural Resources Conservation Service (NRCS) is responsible for administering the Farmland Protection Policy Act. NRCS has not identified any prime or unique farmland in the project area, and construction of the pipeline or other water delivery facilities would not affect any prime or unique farmlands.

Fish and Wildlife Coordination Act

The Fish and Wildlife Coordination Act requires federal agencies to consult with USFWS, National Marine Fisheries Service (NMFS), and the state fish and wildlife resource agency before undertaking or approving water projects that impound or divert surface water. This consultation is intended to promote conservation of fish and wildlife resources by preventing their loss or damage and to provide for development and improvement of fish and wildlife resources in connection with water projects. Federal agencies undertaking water projects are required to fully consider recommendations made by USFWS, NMFS, and the state fish and wildlife resource agency in project reports, such as NEPA documents, and include measures to reduce impacts on wildlife in project plans. Reclamation believes the consultation requirements of NEPA and the ESA are sufficient to also meet any requirements for consultation under the Fish and Wildlife Coordination Act.

5.2 SUMMARY OF AGENCY AND PUBLIC INVOLVEMENT ACTIVITIES

On October 17, 1996, notices were mailed to 265 interested agencies, organizations, and persons informing them of the 30-day public scoping comment period and of a public meeting for preparation of an EA for this project. Reclamation also published a notice of the scoping process and public meeting in the Federal Register on October 15, 1996 (Volume 51, No. 200). Reclamation conducted an agency coordination meeting on October 31, 1996, to present the proposed action and elicit comments from interested and affected federal, state, and local agencies. The meeting was attended by staff members from the USFWS, BLM, AGFD, Bureau of Indian Affairs, and City of Phoenix, and was also attended by several members of the general public.

Reclamation also conducted a public scoping meeting at New River Elementary School on November 2, 1996. The meeting was attended by more than 60 people, of whom 15 provided comments on the scope and content of the draft EA. Reclamation provided an overview of the purpose of the meeting, the proposed pipeline route, and the NEPA process before accepting comments from the public. During the meeting, Reclamation announced it would extend the deadline for written comments to December 13, 1996. A second notice regarding the public scoping comment period extension was sent to over 300 recipients on November 12, 1996.

Reclamation received 68 comment letters from agencies and members of the public regarding the scope and content of the draft EA.

Comments received include numerous comments on the merits of the Option and Lease Agreement and The Villages development and a number of comments on the scope and content of the draft EA, including:

- requests for a full EIS to be prepared on the water delivery facilities and The Villages development;
- concerns and questions about use of groundwater in the area;
- concerns about leapfrog development;
- questions about the reliability of the surface water supply;
- requests for early notice of the public meeting;
- requests for the EA to address air quality, traffic, and development density issues;
- concerns about vegetation and wildlife resources effects and cultural resource issues; and
- concerns about effects on the Agua Fria River and New River.

Reclamation has reviewed and considered all of the comments received during the public meeting and in writing and has incorporated relevant comments on the content and scope of the draft EA into the document, where appropriate. Copies of the transcript of the public meeting and all comment letters are available at Reclamation's Phoenix Area Office.

Copies of the draft EA were distributed on June 9, 1997, to over 300 federal, state, and local agencies, organizations and interested individuals. A public hearing to accept verbal comments on the adequacy of the draft EA was held on June 28, 1997, in New River. Public notification of the availability of the draft EA and public hearing was published in four local newspapers twice before June 9, 1997. Approximately 150-200 people attended the public hearing; 25 people provided comments for the public record. On August 6, 1997, the draft EA was sent out to approximately 60 additional individuals that had earlier requested to be placed on the mailing list for receipt of a draft EA, but whose names had been inadvertently omitted from the original mailing list. The comment

period was extended until September 8, 1997. A total of 36 written comments were received during the public review and comment period. Copies of these written comments, a summary of the public hearing comments, and Reclamation's responses are provided as Appendix H.

The EA analyses were conducted based on information from the following federal, state, and local agencies:

- U.S. Bureau of Reclamation, Phoenix Area Office;
- U.S. Fish and Wildlife Service;
- U.S. Bureau of Land Management
- U.S. Bureau of Indian Affairs
- Arizona State Land Department
- Arizona Game and Fish Department;
- Arizona Department of Water Resources;
- Arizona Department of Environmental Quality;
- State Historic Preservation Officer;
- Maricopa Association of Governments;
- Maricopa County Air Pollution Control District;
- Maricopa County Department of Transportation;
- Maricopa County Flood Control District;
- Maricopa County Planning Department;
- Ak-Chin Indian Community;
- Yavapai-Prescott Indian Tribe; and
- Salt River Pima-Maricopa Indian Community.

Section 6.0 Citations

6.1 PRINTED REFERENCES

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6.2 PERSONAL COMMUNICATIONS

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Brown, Vi. Manager. Maricopa County Air Pollution District, Environmental Services Department, Technical Services Division. December 3, 1996 - telephone conversation and December 4, 1996 - facsimile transmittal.

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Eto, Sandra. National Environmental Policy Act specialist. U.S. Bureau of Reclamation, Phoenix, AZ. June 14, 1996 - telephone conversation, facsimile; June 26, 1996 - telephone conversation.

Gatz, Tom. Biologist. U.S. Fish & Wildlife Service, Phoenix, AZ. October 15 and 22, 1996 - telephone conversations.

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Miller, Janice. Senior planner, AICP. Maricopa County Department of Transportation, Community and Government Relations Division, Maricopa County, AZ. November 12, 1996 - telephone conversation; November 6, 1997 - telephone conversation.

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Wonderley, Wendy. Project manager, Bookman-Edmonston Engineering, Inc. October 15, 1996 - meeting and site visit.

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