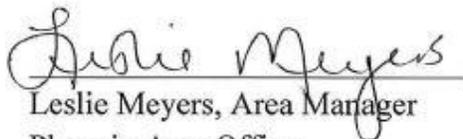


United States Department of the Interior
Bureau of Reclamation
Lower Colorado Region
Phoenix Area Office

FINDING OF NO SIGNIFICANT IMPACT

ARIZONA DEPARTMENT OF WATER RESOURCES
RECOMMENDATION FOR THE REALLOCATION OF
NON-INDIAN AGRICULTURAL PRIORITY
CENTRAL ARIZONA PROJECT WATER
IN ACCORDANCE WITH
THE ARIZONA WATER SETTLEMENTS ACT OF 2004

Approved:


Leslie Meyers, Area Manager

Phoenix Area Office
Bureau of Reclamation

Date:

11/8/19

FONSI No.: PXAO 19-05

Introduction

The Bureau of Reclamation has prepared the following Environmental Assessment (EA) in accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, and pursuant to the Arizona Water Settlements Act (AWSA) of 2004 (Public Law 108-451, Section 104), which states that, prior to the Secretary of the Interior (Secretary) making a decision to accept or reject the Arizona Department of Water Resources (ADWR) recommendation for the reallocation of designated Non-Indian Agricultural (NIA) Priority Central Arizona Project (CAP) water, Reclamation must comply with NEPA. The Secretary may only approve or reject ADWR's recommendation and may not modify it. Reclamation is the designated Lead Federal Agency as defined in 43 CFR § 46.225-46.230. Cooperating Agencies include the Central Arizona Water Conservation District (CAWCD) and ADWR.

Public Involvement

Public scoping for this EA began on November 19, 2015 and ended on January 18, 2016. Reclamation mailed scoping materials to Federal, state, and local agencies, Native American Tribes, organizations, Proposed Recipients, and other interested stakeholders. Scoping meetings were held on December 8, 2015, December 9, 2015, and December 10, 2015, in Phoenix, Casa Grande, and Tucson, Arizona. Reclamation received two public responses during this initial scoping period. In addition to a request to extend to the comment period, which Reclamation honored, the public requested that Rosemont Mine be analyzed as a connected action, and that the impacts of the reallocation on the environment and other water users in project area be addressed.

Reclamation initiated consultation with the Ak-Chin Indian Community, Fort McDowell Yavapai Nation, Gila River Indian Community, Hopi Tribe, Pascua Yaqui Tribe, Salt River Pima-Maricopa Indian Community, San Carlos Apache Tribe, Tonto Apache Tribe, Tohono O'odham Nation, Yavapai-Apache Nation, and the Yavapai-Prescott Indian Tribe on November 19, 2015. No comments were received during the public scoping period.

In June 2016, Reclamation mailed Notices of Availability of the Draft EA to Federal, state, and local agencies, Native American Tribes, organizations, Proposed Recipients, and other interested stakeholders. A public meeting was held on June 22, 2016 in Casa Grande, Arizona, and the commenting period ended on July 22, 2016. During the public comment period for the draft EA, Reclamation received comment letters from one business, one public utility, two nongovernmental organizations, and two Tribes. The primary topic raised in the comments was the delivery of water to Proposed Recipients, Rosemont and Resolution Mines.

Reclamation postponed further action on the EA in August 2016, at the request of the San Carlos Apache Tribe and Tohono O'odham Nation. Reclamation conducted in-person consultation with the Tohono O'odham Nation on February 17, 2017, and with the San Carlos Apache Tribe on June 16, 2017, at the request of the Tribes. The draft EA was revised in response to the comments received during consultation.

Major Considerations

The following issues were addressed in the EA and have been taken into consideration in Reclamation's determination of whether a FONSI is appropriate, or an environmental impact statement should be prepared.

1. The EA demonstrates that there will be no significant adverse or beneficial impacts on the quality of the human environment including water, air, noise, land use and ownership, soils and geology, riparian and wetland areas, cultural resources, and biological resources. Effects of the Proposed Action on these resources will be primarily localized.
2. The Proposed Action will not result in any significant effects on public health or safety. Uses of CAP water for potable water supply and recharge are well established. The Proposed Recipients will receive or use the water for direct use and recharge in the same manner and/or quality in which it has been received or used in the past.
3. There are no wild and scenic rivers, wilderness areas, refuges, park lands, national natural landmarks, national monuments, sole or principal drinking water aquifers, or other unique or rare characteristics of the land and aquatic environs that will be significantly affected. The Tucson Active Management Area is co-located with a sole source aquifer, which would benefit from the delivery of the NIA Priority CAP water to Proposed Recipients in lieu of groundwater pumping; however, the benefit would not be significant. Wilderness areas, national monuments, and refuges are also located within the project area; however, ADWR's reallocation recommendation does not authorize any construction or ground disturbing activities. Therefore, no direct adverse impacts on unique characteristics of the geographic area could occur.
4. The effects on the quality of the human environment are not likely to be highly controversial, as defined in 43 CFR § 46.30.
5. Highly uncertain, unique, or unknown risks affecting the human environment are not anticipated to occur as a result of this Proposed Action. ADWR analyzed applications from the Proposed Recipients and made recommendations for municipal and industrial NIA Priority CAP water allocations. The Proposed Recipients will receive or use the water for direct use and recharge in the same manner in which it has been received or used in the past.
6. The Proposed Action will not establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration. Some commenters expressed their belief that allocating water to mining companies would allow new mining operations to occur, and/or ensure the continued operation of existing mines; however, in the absence of an NIA Priority CAP water allocation, mining companies would still have access to groundwater sufficient to meet their mining operational needs. As explained in Section 3.1 of the EA, the Secretary's approval of ADWR's recommendation for the proposed mines to receive NIA Priority CAP water does not trigger development of the proposed mines, nor would it alter active mine operations.

7. Cumulatively significant impacts are not anticipated to occur as a result of the Proposed Action. The Proposed Action, combined with a growing population's demand for more water, climate change in the arid southwest, and reasonably foreseeable past, present, and future actions and scenarios in Section 3.2 of the EA, will result in cumulative impacts on land use patterns, biological, cultural and socioeconomic resources, and water usages; however, these impacts would not be significant when considered in a regional or national context.
8. The Proposed Action will not adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places nor cause loss or destruction of significant scientific, cultural, or historical resources.

The EA has evaluated indirect and cumulative impacts associated with the Proposed Action to the degree those impacts are reasonably foreseeable, and not speculative or totally unknown. All recipients could use existing infrastructure to receive the new allocation. Where potential future impacts would occur from a Proposed Recipient's construction of infrastructure to take and use its NIA Priority CAP water allocation, but no other details are known about the associated location of, or amount of ground disturbance anticipated by this infrastructure, environmental clearances cannot be evaluated until those details are known. Each CAP water service subcontract includes a clause that states, in part, "Notwithstanding any other provision of this subcontract, Project Water shall not be delivered to the Subcontractor unless or until the Subcontractor has obtained final environmental compliance from the United States..." This is to ensure that site-specific environmental clearances associated with construction and operation of the CAP water delivery systems are completed prior to delivery of any of the reallocated water. Compliance with the National Historic Preservation Act of 1966, as appropriate, would be completed at that time.

Government to Government consultation occurred with two tribes, the San Carols Apache Tribe and the Tohono O'odham Nation. Both Tribes were opposed to the use of land to construct facilities that would deliver water to the proposed Rosemont and Resolution Mines. Reclamation took these issues into consideration during the analysis of the Proposed Action. The development of Rosemont and Resolution Mines is independent of the Proposed Action; however, if approved, the mines could potentially impact cultural resources.

9. No federally protected species or areas designated as critical habitat will be adversely affected by the Proposed Action. There will be no effects to listed species or critical habitat where infrastructure for the delivery of reallocated water currently exists. Construction of infrastructure not yet identified for the delivery of NIA Priority CAP water would be analyzed under a separate NEPA analysis to ensure effects on listed species are addressed. Land development with no federal nexus would be covered by Section 10 of the ESA, which regulates take of listed species by non-federal actions.
10. The Proposed Action is authorized under the AWSA, and was evaluated in the EA in compliance with NEPA, and does not threaten to violate federal laws or requirements imposed for the protection of the environment. Proposed Recipients will be required to follow state, tribal and local laws, as applicable and appropriate.

Finding of No Significant Impact

Based on the EA and after considering public comments received, Reclamation has determined that the Proposed Action will not result in significant environmental impacts on the human environment. The EA provides a description of the existing conditions of resource areas that could be affected and potential impacts that are anticipated to result from the Secretary's approval of ADWR's recommendation, when compared to the No Action alternative. Preparation of an environmental impact statement is not required.