

Appendix A
Scoping Memorandum



United States Department of the Interior

BUREAU OF RECLAMATION

Phoenix Area Office
6150 West Thunderbird Road
Glendale, Arizona 85306-4001



IN REPLY REFER TO:

PXAO-1500
ENV-6.00

AUG 11 2008

MEMORANDUM

To: All Interested Parties, Organizations, and Agencies

From: Carol Lynn Erwin
Area Manager

Acting For

Subject: Notice of Public Scoping for Preparation of an Environmental Assessment (EA) on the Proposed Community Water Company of Green Valley (CWC) Central Arizona Project (CAP) Water Distribution System and Recharge Facility (Action by September 12, 2008)

The Bureau of Reclamation has received CWC's final plans for taking and using its CAP water allocation. Pursuant to the National Environmental Policy Act, Reclamation is requiring preparation of an EA to describe the existing environment and anticipated environmental impacts from construction and operation of CWC's proposed CAP water system. Reclamation is inviting the public to provide input regarding issues and concerns that should be included in the EA.

BACKGROUND

On May 17, 1985, CWC entered into a CAP water service subcontract for 1,100 acre-feet (AF) of CAP water annually, with Reclamation and the Central Arizona Water Conservation District, which operates the CAP. This CAP water service subcontract was later amended in 1997 when New Pueblo Water Company transferred 337 AF annually to CWC. CWC also was allocated 1,521 AF annually as a result of the 2005 Arizona Water Settlements Act, making CWC's total CAP water allocation 2,858 AF annually.

Prior to entering into its initial subcontract, Reclamation reviewed CWC's conceptual plans for taking and using its CAP water allocation and determined they would not result in significant impacts. Because CWC did not plan to implement those plans in the reasonably foreseeable future, Reclamation indicated that CWC would need to submit final plans for taking and using its CAP water allocation to Reclamation for review and final environmental clearances prior to commencement of construction.

Recently, CWC provided Reclamation with final plans for taking and using its CAP water allocation. The prior conceptual plans indicated CWC would treat and directly use its CAP water. The final plans indicate CAP water would be recharged and CWC would continue to pump and serve ground water. Reclamation has determined an EA is needed due to the following: The final plans include construction and operation of a recharge facility; there has been a substantial amount of time that has gone by since Reclamation's original review; and,

A proposed 36-inch, raw water pipeline would begin at the existing CAP pipeline terminus, which is located at the southwest corner of the intersection of Interstate 19 and Pima Mine Road (Figure 2). It would proceed east along Pima Mine Road until turning south along Nogales Highway. At the intersection of the Nogales and Old Nogales Highways, the pipeline alignment would continue south along Old Nogales Highway approximately 0.9 miles. At this point, the pipeline size would be reduced to 20-inch pipe and would proceed easterly along the section line of Sections 31 and 32 of Township 17S, Range 14E (the extended alignment for El Corto Road) to a proposed 20-acre recharge site located in Section 29, T17S, R14E. Along this same alignment, a second 20-inch transmission pipeline from the recharge site would be constructed heading in a westerly direction along the section line to CWC's existing Well #11. Two booster stations would be constructed. The new pipeline would deliver up to 7,000 AF of CAP water per year to the recharge site for the first 15 years of operation (a total of 105,000 AF). After that, the rate of recharge may be reduced. Recovery wells would be constructed at the recharge site to recover CAP water after the first 15 years of operation, or sooner if the existing CWC wells become unusable due to sulfate contamination.

An agreement between CWC and Rosemont Copper Company (RCC) would provide the funding mechanism for the pipeline construction. The agreement would allow RCC to recharge CWC's CAP water allocation for a period of 15 years. RCC has made a commitment to the Green Valley community to recharge a total of 105% of any ground water withdrawn for the operation of its facilities. It is anticipated that this commitment, supplemented by additional sources, could result in a recharge volume of as much as 7,000 AF per year. Utilization of the CAP water supply for this recharge would help maintain the local aquifer and utilize renewable water sources.

No Action Alternative

The No Action Alternative would mean that no pipeline would be constructed in the near future for water conveyance and recharge of the aquifer. CWC is a member of a regional water planning group, the Upper Santa Cruz/Providers and Users Group. This group, formed in October 2007, has been studying ways to bring CAP and other renewable water resources to the greater Green Valley/Sahuarita region to address long-term water supply needs. It is anticipated CWC would continue to investigate ways to deliver its CAP water allocation for use within its water service area, either as part of a regional system, or as a discrete system. In the foreseeable future, however, CWC would continue to rely solely on pumped ground water for delivery to its customers. CWC's annual CAP water allocation of 2,858 AF would continue to be available for purchase as excess CAP water.

Without the delivery and use of its CAP water allocation—either directly or by recharge and recovery—CWC would not have an alternative potable water supply should its existing wells become contaminated by the sulfate plume from the mine tailing impoundment. In addition, without introducing a renewable water supply to the area, ground-water levels would continue to decline.

ATTACHMENT TO SCOPING NOTICE

Brief Description of the Proposed Community Water Company of Green Valley Central Arizona Project Water Delivery System Project

BACKGROUND

On May 17, 1985, Community Water Company of Green Valley (CWC) entered into a Central Arizona Project (CAP) water service subcontract for 1,100 acre-feet (AF) of CAP water annually, with Reclamation and the Central Arizona Water Conservation District, which operates the CAP. This CAP water service subcontract was later amended in 1997 when New Pueblo Water Company transferred 337 AF annually to CWC. CWC also was allocated 1,521 AF annually as a result of the 2005 Arizona Water Settlements Act, making CWC's total CAP water allocation 2,858 AF annually.

Reclamation must comply with the requirements of the National Environmental Policy Act prior to approving CWC's plans for taking and using its CAP water allocation. Reclamation has determined an environmental assessment (EA) is necessary. Based upon the EA, Reclamation will determine whether a Finding of No Significant Impact is appropriate, or an environmental impact statement must be prepared prior to approving CWC's plans. The impacts currently anticipated to be addressed in the EA include, but are not limited to, biological resources, cultural resources, land ownership and use, water quality and quantity,¹ air quality, and socioeconomic resources.

Proposed Action - Pipeline and New Recharge Site

CWC has been working for a number of years to ensure the future water supply for residents of the Green Valley area. The service area of CWC covers approximately eight square miles (Figure 1). A 2007 report completed by Pima County states "the water table in Green Valley has been declining in past years and expected to continue to decline as water demands increase." Drawdown of the local aquifer has caused concerns regarding quantity of available water in the future. Despite the current slowdown in the economy, future residential development is likely to occur, as evidenced by the interest in large master planned communities in this region in recent years. In addition, CWC is concerned about the presence of a sulfate plume from the Phelps Dodge Sierrita tailing impoundment (now owned by Freeport McMoRan Sierrita, Inc.) and its potential impact to CWC's operating wells, underscoring the need for an alternative water source.

CWC plans to construct and operate a raw water delivery pipeline and underground storage facility (recharge site) to deliver and recharge Central Arizona Project (CAP) water in the Green Valley area (Figure 2). Under the proposed project, the pipeline would be sized to provide additional flow capacity, should other water users make arrangements with CWC to utilize the system for delivery of CAP water.

¹ Although the recharge location is distant from most existing wells and other development, the potential effects, if any, of underground mounding of the water to be recharged in this area will be evaluated.

A proposed 36-inch, raw water pipeline would begin at the existing CAP pipeline terminus, which is located at the southwest corner of the intersection of Interstate 19 and Pima Mine Road (Figure 2). It would proceed east along Pima Mine Road until turning south along Nogales Highway. At the intersection of the Nogales and Old Nogales Highways, the pipeline alignment would continue south along Old Nogales Highway approximately 0.9 miles. At this point, the pipeline size would be reduced to 20-inch pipe and would proceed easterly along the section line of Sections 31 and 32 of Township 17S, Range 14E (the extended alignment for El Corto Road) to a proposed 20-acre recharge site located in Section 29, T17S, R14E. Along this same alignment, a second 20-inch transmission pipeline from the recharge site would be constructed heading in a westerly direction along the section line to CWC's existing Well #11. Two booster stations would be constructed. The new pipeline would deliver up to 7,000 AF of CAP water per year to the recharge site for the first 15 years of operation (a total of 105,000 AF). After that, the rate of recharge may be reduced. Recovery wells would be constructed at the recharge site to recover CAP water after the first 15 years of operation, or sooner if the existing CWC wells become unusable due to sulfate contamination.

An agreement between CWC and Rosemont Copper Company (RCC) would provide the funding mechanism for the pipeline construction. The agreement would allow RCC to recharge CWC's CAP water allocation for a period of 15 years. RCC has made a commitment to the Green Valley community to recharge a total of 105% of any ground water withdrawn for the operation of its facilities. It is anticipated that this commitment, supplemented by additional sources, could result in a recharge volume of as much as 7,000 AF per year. Utilization of the CAP water supply for this recharge would help maintain the local aquifer and utilize renewable water sources.

No Action Alternative

The No Action Alternative would mean that no pipeline would be constructed in the near future for water conveyance and recharge of the aquifer. CWC is a member of a regional water planning group, the Upper Santa Cruz/Providers and Users Group. This group, formed in October 2007, has been studying ways to bring CAP and other renewable water resources to the greater Green Valley/Sahuarita region to address long-term water supply needs. It is anticipated CWC would continue to investigate ways to deliver its CAP water allocation for use within its water service area, either as part of a regional system, or as a discrete system. In the foreseeable future, however, CWC would continue to rely solely on pumped ground water for delivery to its customers. CWC's annual CAP water allocation of 2,858 AF would continue to be available for purchase as excess CAP water.

Without the delivery and use of its CAP water allocation—either directly or by recharge and recovery—CWC would not have an alternative potable water supply should its existing wells become contaminated by the sulfate plume from the mine tailing impoundment. In addition, without introducing a renewable water supply to the area, ground-water levels would continue to decline.

Appendix B

Scoping Summary Report

SCOPING SUMMARY REPORT – January 2009

Community Water Company of Green Valley Environmental Assessment

This report has been prepared to provide a summary of the scoping process conducted for Community Water Company of Green Valley's (CWC) plans for taking and using its Central Arizona Project (CAP) entitlement to Colorado River water. An environmental assessment (EA) will be prepared to describe the anticipated impacts resulting from CWC's plans to construct and operate a water delivery system that would transport CWC's CAP entitlement of 2,858 acre-feet per year (AFY) through a buried pipeline to a 20-acre recharge facility located east of CWC's current water service area.

The report provides a summary of the following:

- efforts made to notify interested agencies, organizations, and individuals about the proposed project;
- the major points made in public comments received during the scoping process, both written in response to 'Reclamation's request for scoping comments, and verbally at a public scoping meeting held August 26, 2008, in Green Valley, Arizona; and
- the relevant issues and concerns identified during scoping that will be addressed in the EA.

The report also briefly addresses comments that were considered to be beyond the scope of, or not applicable to, this proposed action.

BACKGROUND

On May 17, 1985, CWC entered into a CAP water service subcontract for 1,100 AFY of CAP water with the Central Arizona Water Conservation District (CAWCD), which operates the CAP, and Reclamation. This CAP water service subcontract was later amended in 1997 when New Pueblo Water Company transferred 237 AFY of CAP entitlement to CWC. CWC also was allocated an additional 1,521 AFY of CAP entitlement as a result of the 2005 Arizona Water Settlements Act, making CWC's total CAP entitlement equal to 2,858 AFY.

Prior to entering into the 1985 water service subcontract, Reclamation received and conditionally approved CWC's conceptual plans for taking and using its CAP entitlement. Reclamation indicated that once CWC finalized its plans, the plans would need to be submitted for review and final environmental clearances prior to commencement of construction.

In April 2007 [sic, 2008], CWC provided Reclamation with final plans for taking and using its CAP water entitlement. The prior conceptual plan indicated CWC would treat and

directly use its CAP water. The final plan indicates CAP water would be recharged and CWC would continue to pump and deliver groundwater to its customers. Specifically, CWC plans to enter into an agreement with Rosemont Copper Company (Rosemont) through which CWC would construct and operate a raw water delivery pipeline and underground storage facility (USF) to deliver and store CAP water in the Green Valley area, that would be paid for by Rosemont. Under the preferred alternative, the pipeline would be sized to provide additional flow capacity, should other water users in the Upper Santa Cruz sub-basin make arrangements with CWC to utilize the system for delivery of CAP water.

Because the final plan includes construction and operation of the USF, the amount of time that has gone by since Reclamation's original review, and changes in the environmental conditions within the project area, Reclamation concluded an EA is needed to comply with the National Environmental Policy Act (NEPA). Based upon the EA, Reclamation will determine whether a Finding of No Significant Impact is appropriate, or an environmental impact statement (EIS) must be prepared prior to delivering CAP water to CWC.

Rosemont intends to develop a mine in the Santa Rita Mountains, located approximately 10 to 12 miles southeast of the proposed USF in Green Valley. Because a portion of the mine is located on the Coronado National Forest (CNF), the CNF must approve Rosemont's proposed Mine Plan of Operation (MPO). CNF issued a Notice of Intent to prepare an EIS on March 13, 2008 (*Federal Register*: 73 [13527]), and is in the process of evaluating the scoping comments received during the scoping period. According to Rosemont's proposed MPO, the total life-of-mine water usage is estimated to be 100,000 acre-feet. The mine extraction well is located within the Upper Santa Cruz sub-basin. Rosemont has made a commitment to the Green Valley community to replenish 105 percent of its mine water usage within the Santa Cruz basin using available CAP water. There are 11 existing underground storage facilities located within the Santa Cruz basin. Rosemont has been recharging excess CAP water at three of these facilities since 2007. This commitment would result in a replenishment volume of as much as 7,000 acre-feet per year within the Santa Cruz basin. Rosemont's proposed MPO indicates its preference to recharge available CAP water close to its production wells to lessen impacts of its groundwater withdrawals on local water users.

CWC and Rosemont signed a Letter of Intent in July 2007, indicating their intention to enter into an agreement under which Rosemont would fund the construction of the CWC water delivery system, and Rosemont would have first priority of using CWC's CAP water and the recharge facility's capacity for 15 years upon completion of the system unless CWC needs to utilize the system to deliver water to its customers. Although use of CWC's USF could assist Rosemont in meeting its commitment to recharge CAP water close to its production wells, the Letter of Intent does not indicate the agreement is contingent upon the approval of the MPO by CNF. In a subsequent memorandum from Rosemont to CWC dated January 20, 2009, Rosemont reiterated its intent that construction of the CWC water delivery pipeline proceed on a schedule that is independent of, and not contingent upon, CNF's approval of the proposed MPO pursuant to NEPA.

CWC carried out an extensive public involvement program to notify its members and customers about the plans for taking and using its CAP entitlement. CWC publicly announced its plan for the proposed project in a press release on July 19, 2007, and held a public meeting on July 25, 2007, to describe the project in more detail. The August 2007

newsletter distributed to all CWC members and customers described the various issues and recharge alternatives being considered. CWC held a series of meetings with its members and customers to describe and discuss the proposed project on August 24, September 11, and October 30, 2007. The Arizona Corporation Commission (ACC) invited public comment on the proposed pipeline at a Green Valley Town Hall Meeting on December 5, 2007. Comments, frequently asked questions and CWC's responses and replies have been posted and updated since August 2007 on the CWC website at <http://www.communitywater.com/>.

PUBLIC SCOPING

“Scoping” is an integral part of the NEPA process. It provides “*an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action.*” (40 CFR § 1501.7).

The objectives of scoping for this Federal action include the following:

- Determine the range of alternatives to be evaluated;
- Identify environmental review and consultation requirements;
- Identify relevant issues related to CWC's plans for taking and using its CAP entitlement that should be addressed in the EA;
- Define the environmental analysis process and technical studies necessary to adequately address the impacts of the project;
- Indicate any public EAs or other EISs which are being or will be prepared that are related to but are not part of the scope of the NEPA document under consideration;
- Identify the interested and affected public; and
- Provide information to the public regarding the proposed project.

Reclamation sent out a scoping memorandum on August 11, 2008, to about 70 interested agencies, organizations, and individuals requesting input regarding issues or concerns that should be addressed in the EA. Reclamation also issued a press release and posted the scoping memorandum on its website on August 11, 2008. A public scoping meeting was held on August 26, 2008, in Green Valley, Arizona, which was attended by approximately 70 persons. Following an open house with informational displays on the proposed project and a presentation by Reclamation on the NEPA process, public comments were invited. Nine persons provided oral comments, which were transcribed by a court reporter. The comment period was open through September 12, 2008; 28 comment letters were received.

ISSUES RAISED THROUGH SCOPING AND RECLAMATION'S RESPONSES

A complete set of written comments that have been received and transcript of oral comments presented at the August 26th meeting are available for review at Reclamation's Phoenix Area Office and Tucson Field Office. Reclamation has reviewed and considered all the comments that have been received. The comments fell into four major categories: the NEPA process; action alternatives; statutory and/or regulatory conflicts; and impacts/issues/concerns. These comments are briefly described below, along with how they have been addressed by Reclamation.

I. The NEPA process

- A. The NEPA process is premature and should not be initiated at this time. Several people commented there was insufficient information to prepare an EA, or that the lack of a commitment of funding or contractual document made the preparation of an EA premature. Others felt that Reclamation should wait until Pima County completed updating a previous study to determine the best areas to develop recharge facilities within the Upper Santa Cruz sub-basin, in order to include an alternative recharge basin location that would result in the best environmental benefits for the region.

Reclamation's response. The Federal action for which the EA is being prepared is to enable CWC to take and use its CAP entitlement. CWC has provided sufficiently detailed design plans to initiate the NEPA process. Reclamation believes a contractual document is not required to initiate the NEPA process. CWC's consultant has conducted investigations to determine the most appropriate location for an underground storage facility to meet CWC's need. The EA will summarize the investigations that were undertaken and their results.

- B. An EIS is required. The majority of the comments received indicated an EIS should be prepared for any or all of the following reasons: the impacts from the project itself would be significant; the project is connected to the Rosemont mine project and as a connected project the impacts would be significant; and/or this project, together with the Rosemont mine, would result in significant cumulative impacts.

Reclamation's response. Section 1508.9(a)(1) of the NEPA regulations states an environmental assessment serves to: "Briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact." We initiated preparation of the environmental assessment to determine whether a Finding of No Significant Impact is appropriate or an EIS should be prepared.

As stated in Section 1508.25(a)(1) of the NEPA regulations, actions are connected and should be discussed in the same NEPA document if the actions meet any of the following:

- (i) Automatically trigger other actions that may require environmental impact statements.

- (ii) Cannot or will not proceed unless other actions are taken previously or simultaneously.
- (iii) Are interdependent parts of a larger action and depend on the larger action for their justification.

40 CFR §1508.25(a)(1)

Reclamation recognizes construction of the CWC CAP water delivery system is proposed to be funded by Rosemont and that CWC plans to give Rosemont priority for use of CWC's CAP water for the first 15 years of the system's operation unless it is needed by CWC. Nevertheless, Reclamation must determine whether or not the proposed action and Rosemont mine are "connected" as defined in the NEPA regulations, by applying the three criteria above.

- (i) Approval of the CWC water delivery system does not automatically trigger the Rosemont mine operation. CWC has, since 1985, pursued opportunities to develop a means for taking and using its CAP entitlement. Presently, use of CWC's proposed water delivery system is not identified in Rosemont's proposed MPO under consideration by CNF. Reclamation's approval of the CWC water delivery system is not contingent upon CNF's approval of Rosemont's MPO, nor the operation of the mine itself.
- (ii) As indicated in a memorandum to CWC from Rosemont dated January 20, 2009 (Attachment D of the Draft EA), Rosemont has made a commitment to pay for construction of the CWC water delivery system regardless of the outcome of CNF's EIS on Rosemont's proposed MPO. Rosemont's MPO does not include the CWC water delivery system and therefore currently CWC's water delivery system is not considered to be a prerequisite for the mine's operation.
- (iii) The CWC water delivery system has separate utility from the Rosemont mine. Based upon Rosemont's commitment to fund the construction of the water delivery system regardless of the subsequent outcome of the CNF EIS process, the proposed project does not depend upon the mine to justify its construction and operation. Neither does Rosemont depend upon the construction of the pipeline to proceed with its mine proposal. It can meet its commitment to replenish water within the Santa Cruz basin using other sources of CAP water and other groundwater storage facilities, as has been occurring since 2007. Therefore, Reclamation believes these two actions are not interdependent parts of a larger action, nor do they depend on the larger action for their justification.

Although Reclamation has determined the proposed project and the Rosemont mine proposal are not connected actions, the potential effect of future mine-related pumping was an issue that was raised in many of the comments received. To be responsive to this concern, Reclamation has requested that modeling conducted to evaluate the proposed project's impact on ground water include both a scenario in which there is no mine-related pumping in the future,

and one in which there is mine-related pumping in the future. The results will be included in the EA's discussion of ground water impacts, and potential cumulative impacts where appropriate.

- C. The scoping process was inadequate. Several individuals complained about the lack of advance notice about the public scoping meeting. One individual complained about the time of day and time of year of the meeting, and felt more than one scoping meeting should be held.

Reclamation response. As noted above, Reclamation sent out about 70 scoping notices, and notified the local news media about both the scoping period and the scheduled public meeting. The comment period was open for over 30 days. Reclamation believes the public was given sufficient opportunity to provide scoping comments during this process. Although we believe it is not reasonable to delay initiation of the NEPA process until winter residents return to the area, we would be happy to send notices to part-time residents regarding the project if their out-of-town addresses are provided to us. In addition, we will attempt to schedule the time of our next meeting to reduce conflicts with other community activities.

II. Action Alternatives.

- A. The EA needs to consider more than just "do it" or "don't do it." Several action alternatives were suggested, including identifying alternate funding for the proposed action, considering alternate pipeline and/or recharge basin locations, and considering an alternative that addresses the entire region's existing and future water needs.

Reclamation's response. As indicated in the Council of Environmental Quality's memorandum, "Scoping Guidance" dated April 30, 1981, one of the purposes of scoping is to "...define the issues and alternatives that will be examined in detail...." Based upon the comments received, Reclamation and the project proponent have agreed the following will also be described and evaluated in the EA, to consider a reasonable range of action alternatives along with the preferred alternative:

An alternative that is identical to the preferred alternative except that the delivery pipeline is sized to accommodate the CAP entitlements of CWC and the other CAP water service subcontractor, Green Valley Domestic Water Improvement District (about 5,000 AFY).

An alternative that has a recharge facility and delivery pipeline similar to that of the preferred alternative except that the pipeline and recharge basins are sized to only accommodate CWC's CAP entitlement of 2,858 AFY.

The EA will also briefly discuss alternatives that were investigated but eliminated from further consideration, including other pipeline alignments and recharge facility locations. No proposals using alternate funding have been considered as Rosemont is the only entity that has offered to contribute to the funding of a CAP water delivery system. Reclamation initially intended to include an action alternative in its scoping notice that would utilize the existing Farmers Investment Company (FICO)

groundwater savings facility as an alternate recharge site; however, due to the objections of FICO's president, that alternative was omitted from the scoping notice. The day before the public meeting, FICO announced its intention, with American Nevada Corporation (ANC), to construct a CAP water deliver system of its own, that would initially deliver water to the FICO groundwater savings facility. Reclamation requested information from FICO regarding its proposed FICO/ANC water delivery system, and will review it to determine whether or not this proposal also should be included as a reasonable alternative in the EA.

The purpose of the proposed project is to deliver CWC's CAP entitlement to the vicinity of the CWC service area. The delivery of CWC's CAP water would help offset the overdraft of the ground water aquifer in the Green Valley area by providing a renewable supply of water. The recharge of the water in the vicinity of the CWC service area would help maintain the aquifer levels near the point of use. Delivery of CAP water to the CWC service area also is needed to provide an alternative water source in the event that additional CWC wells are contaminated with sulfate. The concentrated withdrawal of water has created subsidence of the ground surface in the areas of the heaviest pumping. Delivering CAP water to the Green Valley area for recharge in the vicinity of the pumping would help offset the decline of the water table and reduce the potential for ground subsidence. While the proposed action and one of the action alternatives to be considered in the EA would provide an opportunity to deliver CAP water to others in the region, Reclamation is not required by NEPA to insist that the project proponent consider alternatives that satisfy regional needs that are beyond its own purpose and need.

- B. Alternatives that directly address the mine's water needs and/or uses need to be included in the EA. Comments were received indicating Reclamation should include an action alternative that reflects a range of water use scenarios for Rosemont mine, and one that would deliver water directly to the mine. Several comments also questioned Rosemont's estimated mine water usage, stating it was too low and based upon questionable assumptions.

Reclamation's response. An alternative that directly delivers water to the mine, or alternatives that would reflect a range of water use scenarios by the mine, are outside the scope of Reclamation's EA, and would not meet the purpose and need for the proposed project. Alternative sources of water for the proposed mine, and questions regarding the estimated mine water usage would be appropriately addressed in the CNF EIS on the MPO.

Reclamation's evaluation, regarding amounts of water needed for mine use over the life of the project, is based upon Rosemont's published MPO. Use of any other estimate is beyond the scope of the analysis in this EA.

- III. Statutory and/or regulatory conflicts. Use of CWC's CAP entitlement by Rosemont for a number of years would violate the terms of the CAP water service subcontract (Subcontract) and/or would require approval by CAWCD and Reclamation.

Reclamation's response. CWC's delivery and use of its CAP entitlement must be consistent with the provisions of its Subcontract, including Section 4.3, Conditions Relating to Delivery and Use. The agreement between CWC and Rosemont regarding delivery of CWC's CAP water has not been finalized; therefore, Reclamation and CAWCD, the Contracting Officer and Contractor of the Subcontract, respectively, have not reviewed it for conformity with the Subcontract provisions. Once Reclamation and CAWCD have received a copy of the finalized agreement, Reclamation and CAWCD will determine if it is consistent with the Subcontract requirements. It is envisioned impacts from use of the pipeline and recharge facilities would not change significantly if the details of the finalized agreement are modified. If CWC's CAP water is not used as envisioned in CWC and Rosemont's Letter of Intent or a subsequent agreement, use of other sources of CAP water, such as CAP excess pool water or CAP tribal leases, could be delivered and recharged.

IV. Impacts/issues/concerns need to be addressed.

A. Scoping comments included specific issues and concerns that should be addressed in the EA.

Reclamation's response. The scoping notice indicated the following resource areas would be addressed in the EA: biological resources, cultural resources, land ownership and use, water quality and quantity, air quality, and socioeconomic resources. While the following impacts fall within the resource areas identified above, they were specifically mentioned through the scoping process to be evaluated: invasive species; climate change; potential for growth inducement; Santa Cruz River; quality of life and effects to tourism and real estate from declining water table; impacts to the existing groundwater, including any effects of recharge on the existing sulfate plume contamination; and permits required to construct and operate the project.

B. Rosemont's estimate of water use over the life of mine is grossly underestimated. Several comments indicated Reclamation's analysis of impacts to water quality and quantity needed to utilize a much higher estimate of water withdrawal by the mine, spread over a longer period of time.

Reclamation's response. As indicated in II.B. above, Reclamation's evaluation regarding amounts of water needed for mine use over the life of the project are based upon Rosemont's published MPO. Use of any other estimate is beyond the scope of the analysis in this EA. The analysis of groundwater impacts will provide the magnitude of change among the alternatives, with and without Rosemont's proposed pumping. While ultimately Rosemont's water use may differ in both quantity and timing, as will future water use by other entities, the relative magnitude of the cumulative impacts over time among the alternatives will still be valid.

Appendix C

Common Plant and Animal Species in the Project Area

Table A. Plant Species That May Occur in the Project Area

7	Barrel Cactus	<i>Ferocactus acanthodes</i>
8	Black Grama	<i>Bouteloua eriopoda</i>
9	Blue Grama	<i>Bouteloua gracilis</i>
10	Blue Palo Verde	<i>Parkinsonia florida</i>
11	Brittlebush	<i>Encelia farinosa</i>
12	Burrobrush	<i>Hymenoclea monogyra</i>
13	Burroweed	<i>Isocoma tenuisecta</i>
14	Canyon Ragweed	<i>Ambrosia ambrosioides</i>
15	Catclaw Acacia	<i>Acacia greggii</i>
16	Chain-fruit Cholla	<i>Opuntia fulgida</i>
17	Creosote Bush	<i>Larrea tridentata</i>
18	Desert Ironwood	<i>Olnya tesota</i>
19	Fairy Duster	<i>Calliandra eriophylla</i>
20	Foothill Palo Verde	<i>Parkinsonia microphylla</i>
21	Four-wing Saltbush	<i>Atriplex canescens</i>
22	Ocotillo	<i>Fouquieria splendens</i>
23	Pincushion Cactus	<i>Mammillaria</i> spp.
24	Porter's Muhly	<i>Muhlenbergia porteri</i>
25	Saguaro	<i>Cereus giganteus</i>
26	Strawberry Hedgehog	<i>Echinocereus engelmannii</i>
27	Triangle-leaf Bursage	<i>Ambrosia deltoidea</i>
28	Velvet Mesquite	<i>Prosopis velutina</i>
29	White-thorn Acacia	<i>Acacia constricta</i>
30	Wild Buckwheat	<i>Eriogonum</i> sp.
31	Wolfberry	<i>Lycium</i> sp.
32	Wright Sacaton	<i>Sporobolus wrightii</i>

Table B. Wildlife Species That May Occur in the Project Area

Reptiles and Amphibians

39	Common Kingsnake	<i>Lampropeltis getula</i>
40	Couch's Spadefoot Toad	<i>Scaphiopus couchi</i>
41	Desert Grassland Whiptail	<i>Apidoscelis uniparens</i>
42	Desert Iguana	<i>Dipsosaurus dorsalis</i>
43	Desert Spiny Lizard	<i>Sceloporus magister</i>
44	Gophersnake	<i>Pituophis catenifer</i>
45	Great Plains Toad	<i>Bufo cognatus</i>
46	Mojave Rattlesnake	<i>Crotalus scutulatus</i>
47	Red Racer	<i>Masticophis flagellum piceus</i>
48	Regal Horned Lizard	<i>Phrynosoma solare</i>
49	Side-blotched Lizard	<i>Uta stansburiana</i>
50	Sonoran Toad	<i>Bufo alvarius</i>
51	Tiger Whiptail	<i>Apidoscelis tigris</i>
52	Western Banded Gecko	<i>Coleonyx variegatus</i>
53	Western Diamondback Rattlesnake	<i>Crotalus atrox</i>
54	Western Patch-nosed Snake	<i>Salvadora hexalepis</i>
55	Zebra-tailed Lizard	<i>Callisaurus draconoides</i>

1 **Table B (cont.) Wildlife Species That May Occur in the Project Area**

2
3 **Avian**

4		
5	American Kestrel	<i>Falco sparverius</i>
6	Black-tailed Gnatcatcher	<i>Poliophtila melanura</i>
7	Black-throated Sparrow	<i>Aimophila bilineata</i>
8	Brown-headed Cowbird	<i>Molothrus ater</i>
9	Cactus Wren	<i>Campylorhynchus brunneicapillus</i>
10	Common Raven	<i>Corvus corax</i>
11	Curve-billed Thrasher	<i>Toxostoma curvirostre</i>
12	Gambel's Quail	<i>Callipepla gambelii</i>
13	Greater Roadrunner	<i>Geococcyx californianus</i>
14	Harris Hawk	<i>Parabuteo unicinctus</i>
15	House Finch	<i>Carpodacus mexicanus</i>
16	Ladder-backed Woodpecker	<i>Dendrocopos scalaris</i>
17	Lark Sparrow	<i>Chondestes grammacus</i>
18	Loggerhead Shrike	<i>Lanius ludovicianus</i>
19	Mourning Dove	<i>Zenaida macroura</i>
20	Northern Flicker	<i>Colaptes auratus</i>
21	Northern Harrier	<i>Circus cyaneus</i>
22	Northern Mockingbird	<i>Mimus polyglottos</i>
23	Phainopepla	<i>Phainopepla nitens</i>
24	Poor-will	<i>Phalaenoptilus nuttallii</i>
25	Red-tailed Hawk	<i>Buteo jamaicensis</i>
26	Scaled Quail	<i>Callipepla squamata</i>
27	Verdin	<i>Auriparus flaviceps</i>
28	Western Kingbird	<i>Tyrannus verticalis</i>
29	White-crowned Sparrow	<i>Zonotrichia leucophrys</i>

30
31 **Mammals**

32		
33	Antelope Jackrabbit	<i>Lepus alleni</i>
34	Arizona Pocket Mouse	<i>Perognathus amplus</i>
35	Bailey's Pocket Mouse	<i>Chaetodipus baileyi</i>
36	Black-tailed Jackrabbit	<i>Lepus californicus</i>
37	Cactus Mouse	<i>Peromyscus eremicus</i>
38	Collared Peccary	<i>Pecari tajaca</i>
39	Coyote	<i>Canis latrans</i>
40	Deer Mouse	<i>Peromyscus maniculatus</i>
41	Desert Cottontail	<i>Sylvilagus audubonii</i>
42	Desert Pocket Mouse	<i>Chaetodipus penicillatus</i>
43	Desert Woodrat	<i>Neotoma lepida</i>
44	Harris' Antelope Squirrel	<i>Ammospermophilus harrissi</i>
45	Kit Fox	<i>Vulpes macrotis</i>
46	Merriam's Kangaroo Rat	<i>Dipodomys merriami</i>
47	Mule Deer	<i>Odocoileus hemionus</i>
48	Ord's Kangaroo Rat	<i>Dipodomys ordi</i>
49	Round-tailed Ground Squirrel	<i>Spermophilus tereticaudus</i>
50	Southern Grasshopper Mouse	<i>Onychomys torridus</i>
51	Striped Skunk	<i>Mephitis mephitis</i>
52	White-throated Woodrat	<i>Neotoma albigula</i>

53

Appendix D

Community Water Company and Rosemont Copper Memoranda

Memorandum from Rosemont Copper to Community Water Company of Green Valley; January 20, 2009

Letter from CWC to Reclamation; May 15, 2009

January 20, 2009

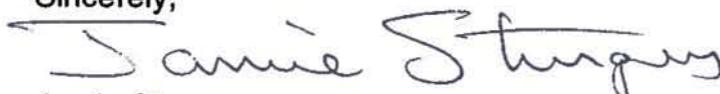
To: Virgil Davis
Community Water Company of Green Valley

Augusta Resource Corporation, parent company of Rosemont Copper Company, an Arizona corporation ("Rosemont"), signed a letter of intent on July 12, 2007 regarding the proposed construction of a pipeline from the terminus of the present Central Arizona Project ("CAP") delivery system to the service area of CWCGV. The contemplated pipeline was intended to cover a distance of approximately seven miles and deliver a minimum of 2,856 acre feet of CAP water per year, with a contemplated maximum flow rate of 700 acre feet per month.

Subsequent to the 2007 agreement, Rosemont and CWCGV have explored, and agreed in principle, to the concept of increasing the pipeline diameter from a nominal 20 inches diameter to as much as a 36 inch diameter pipeline, to allow other parties in the area to achieve regional water delivery from the extended CAP system. The need for this additional capacity depends upon engineering, upstream capacity factors, and upon voluntary participation by others. It does not affect the basic concept approved in the July 12, 2007 Letter of Intent.

Augusta Resource Corporation, through Rosemont Copper Company, has stated frequently in the past, and reiterates today, that the intent of the company is to enter into final main extension agreements and construction contracts to build the pipeline under a schedule that is independent of, and not contingent upon, the permits and approvals of the Rosemont Mine Plan of Operations currently being reviewed by the United States Forest Service under the National Environmental Policy Act. Construction of the pipeline can move forward solely upon mutual approval of the necessary agreements between Rosemont and CWCGV, and the necessary state, federal and local approvals for the pipeline project. Rosemont expects that the design, construction bidding, funding, and actual construction of the pipeline will be completed prior to the finalization of Rosemont Mine Plan of Operation review process, and will move forward completely independent thereof.

Sincerely,



Jamie Sturgess
Vice President Sustainable Development



Community Water Company of Green Valley

1501 S La Canada Drive
Green Valley, AZ 85614

15 May, 2009

CN C6045a

Ms. Sandra Eto
Phoenix Area Office, Attention: PXAO-1500
Bureau of Reclamation
U.S. Department of the Interior
6150 West thunderbird Road
Glendale, AZ 85306-4001

Subject: Financing of Community Water Company of Green Valley Water Delivery System
(WDS)

Dear Ms. Eto,

As requested, this letter confirms the planned financing for the Water Delivery System (WDS) to be constructed by Community Water. The description of the project financing in the March 2009 draft Environmental Assessment (EA) is accurate, as reiterated below.

CWC is a private water company as defined in Arizona Revised Statutes (ARS) §45-402 (30). CWC is also a public service corporation as defined by Arizona Constitution Article 15, § 2. Thus, it is subject to the regulatory jurisdiction of both ADWR and the ACC in providing water utility service. CWC is in the business of producing water for delivery and sale to customers within its service area and has authority to withdraw and distribute ground water from within the Tucson Active Management Area (TAMA) ground water basin under ARS § 45-491. CWC's public service corporation service area is defined by a Certificate of Convenience & Necessity (CC&N) approved by the ACC.

On January 20, 2009, Rosemont confirmed it would finance the WDS under the arrangement set forth in the Letter of Intent dated July 12, 2007, between CWC and Augusta Resource Corporation, the parent company of Rosemont (EA, Appendix D). The CWC water delivery system would be owned and operated by CWC. CWC would deliver CAP water to the recharge basin for use by its customers. For a period of 15 years, Rosemont would have priority over other customers for that water, the system, and recharge capacity, unless they are needed by CWC.

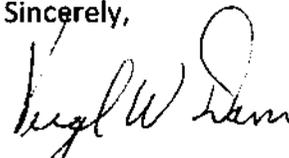
If Reclamation approves the proposed project, CWC and Rosemont will finalize an agreement through which the details of the arrangement will be memorialized. CWC and Rosemont Parties anticipate that the Agreement will require approval by the ACC under Arizona Administrative Code (AAC) R14-2-406. CWC and Rosemont envision that Rosemont would become a customer of CWC, subject to ACC and other approvals, and would provide an advance or contribution in aid of construction to CWC so the necessary infrastructure can be built to move water from the existing

CAP system to a recharge site (underground storage facility) or other location where the water is of use to the customer, without financial burden on CWC's existing customers. CWC and Rosemont anticipate that Rosemont would pay the full cost of the infrastructure, a portion of which may be eventually refunded to Rosemont by CWC, depending on the nature of the transaction as finally approved. Once the infrastructure is in place, Rosemont intends to purchase non-potable CAP water from CWC under an approved tariff by the ACC as provided in AAC R14-2-401(30); R14-2-409(D).

CWC proposes to incorporate this facility into its ACC CC&N and it would become an extension of CWC's operating distribution system and therefore a part of CWC's water service area under ARS § 45-493(A) (2). The underground storage facility would need to be permitted by ADWR under ARS § 45-811.01. Once the facility is permitted, CWC would perform water storage services. Rosemont, as a customer of CWC, would be required to obtain a water storage permit from the ADWR under ARS § 45-831.01 to store CAP water at this facility pursuant to ARS § 45-831.01(B) (2); ARS § 49-243(H).

Please let me know if you have any further questions.

Sincerely,



Virgil W Davis
Secretary of the Board

Cc:

Ken Taylor, Chairman, Community Water Company of Green Valley

Appendix E

Summary of ESA Consultation

The project proposed in the March 9, 2009 Draft Environmental Assessment (DEA) was similar to the Proposed Project in the RDEA except that the recharge site was approximately 2 miles east of the current recharge site alternatives, and would have affected Pima pineapple cactus (PPC) and habitat.

Reclamation submitted a Biological Assessment (BA) to the U.S. Fish and Wildlife Service (FWS) on November 25, 2008, which concluded that the recharge facility construction for the Preferred Alternative may affect, and was likely to adversely affect, the PPC. The Proposed Project would have resulted in the loss of five PPC and approximately 13.5 acres of suitable habitat at the recharge site. Although CWC intended to relocate the five PPC into the buffer area nearby, transplanting PPC is generally unsuccessful. Therefore, CWC proposed to offset these adverse impacts through the purchase of 20 acres of credits from an approved conservation bank for the PPC. Conservation banks protect existing PPC communities from disturbance to ensure viability of regional populations.

The FWS reviewed the current status of PPC, the environmental baseline for the action area, the effects of the proposed action, the cumulative effects of past and present projects, as well as reasonably foreseeable future nonfederal actions. On May 20, 2009, FWS issued a Biological Opinion (BO) that concluded the Proposed Project would not jeopardize the continued existence of the PPC. This determination was based upon the following: (1) the loss of five PPC and 13.5 acres of PPC habitat represent less than 1 percent of the PPC individuals and area surveyed through Section 7 consultations; (2) the Proposed Project would contribute to the overall conservation and recovery of PPC by conserving 20 acres of PPC habitat in perpetuity in a conservation bank; (3) the proposed action is not expected to promote growth in the CWC service area; and (4) development of the Rosemont Mine could proceed with or without the proposed action and, therefore, in accordance with 50 CFR 402.02, the mine is not an interrelated or interdependent action.

As part of the May 20, 2009 BO, the FWS provided concurrence with Reclamation's determination that the Proposed Project may affect, but is not likely to adversely affect, the lesser long-nosed bat (LLNB). The FWS's concurrence was based on the following: (1) the nearest bat colony is 13 miles from the Proposed Project; (2) all saguaros within the proposed recharge site would be transplanted to the buffer area; and (3) no critical habitat has been designated for the LLNB.

Since the May 20, 2009 issuance of the BO, project modifications have occurred that required additional coordination with the FWS. As a result, Reclamation conducted a site visit with FWS staff on January 10, 2010, and then conducted informal consultation with the FWS on the revised recharge basin location (South Parcel), North Parcel Alternative and the CAP Terminus Alternative. On February 10, 2010, Reclamation submitted a revised BA to the FWS. In addition to the revised Preferred Alternative, the revised BA

evaluated effects to the PPC and LLNB from use of the North Parcel recharge site and the CAP Terminus Alternative due to the potential for selection of an alternate recharge site or the need for the CAP Terminus Alternative. The revised BA concluded “no effect” to both the PPC and the LLNB from the revised project (see Section 3.4.2—Biological Resources—Environmental Consequences). Reclamation committed to implement three special conditions if the CAP Terminus Alternative was selected: (1) relocation of the pipeline to avoid PPC; (2) presence of an on-site monitor during construction of the realigned portions of the pipeline; and (3) installation of temporary protective fencing between the construction activities and the PPC. FWS’s response was incorporated into the final EA: 1) in addition to the prior commitments, saguaros too large to successfully transplant will be mitigated by planting replacing saguaros at a ratio of 3:1; transplanted saguaros will be monitored and replaced for a period of five years; 2) CWC will ensure that 80% of the saguaros transplanted or replaced are alive after 5 years; and 3) if the survival rate at the end of five years is less than 80%, additional saguaros will be purchased, planted and monitored by CWC for an additional five years until the 80% survival rate is achieved.

A copy of FWS’ concurrence letter on the revised project follows.



United States Department of the Interior



Fish and Wildlife Service
Arizona Ecological Services Office
2321 West Royal Palm Road, Suite 103
Phoenix, Arizona 85021-4951
Telephone: (602) 242-0210 Fax: (602) 242-2513

In Reply Refer to:
AESO/SE
22410-2009-I-0090

June 24, 2010

Memorandum

To: Chief, Environmental Resources Division, Bureau of Reclamation, Phoenix, Arizona

From: Field Supervisor

Subject: Revised Project Information – Biological Opinion (BO) for the Construction of Community Water Company of Green Valley (CWCGV) Central Arizona Project (CAP) Water Delivery System – AESO/SE 22410-2009-F-0090

Thank you for your correspondence of February 10, 2010, received on February 23, and of May 14, 2010, received on May 20, in compliance with section 7 of the Endangered Species Act of 1973 (ESA) as amended (16 U.S.C. 1531 *et seq.*). These memoranda propose a new location on previously disturbed lands for the construction of the CAP water delivery pipeline and groundwater recharge project for CWCGV, an alternate CAP Terminus tie-in location as a backup if access to the existing pipeline serving the Pima Mine Road Recharge Project is denied. Additional conservation measures are also proposed. The proposed recharge site has been relocated to Township 17 South, Range 13 East, Section 25 OR Section 36 in Green Valley, Pima County, Arizona. Your memoranda conclude that the revised proposed action may affect, but is not likely to adversely affect, the endangered lesser long-nosed bat (*Leptonycteris curasoae yerbabuena*; LLNB). We concur with your determination and provide our rationale below.

Consultation History

On May 20, 2009, we provided you with our biological opinion (22410-2009-F-0090) on the effects of the original alignment of the proposed project, which you determined was likely to adversely affect the endangered Pima pineapple cactus (*Coryphantha scheeri* var. *robustispina*) (PPC), and which may affect, but was not likely to adversely affect, LLNB. We concluded the proposed project would not jeopardize PPC and that effects to LLNB were insignificant. Since issuance of our biological opinion, CWCGV has selected a new recharge basin location on previously disturbed lands. In the original Biological Assessment (BA) of November 25, 2008, all of the potential effects to listed species occurred as a result of recharge basin construction within native vegetation. The new recharge basin location is approximately 1.6 miles due west

of the original site. As a result, the effects to PPC and LLNB as described in the original BA, and our analysis of those effects in our biological opinion, are no longer valid. For this reason, we are withdrawing the original biological opinion associated with this project.

Description of the Proposed Action

A complete description of the proposed action is found in your November 25, 2008, BA, and your February 10, 2010, and May 14, 2010, revised project information memoranda. The proposed action is the construction of a CAP water delivery pipeline and groundwater recharge project for CWCGV.

Conclusion

We concur with your determination that this project may affect, but is not likely to adversely affect, the LLNB for the following reasons:

- No LLNB roost sites are located within the project boundaries. Construction activities will occur during the day, which is outside of the period when LLNB could be foraging within the project site. Therefore, any potential direct effects on the species are discountable; and
- Indirect effects related to loss of forage or habitat removal and fragmentation will be insignificant due to the proposed conservation measures, which include:
 1. employing a contractor knowledgeable in current saguaro transplant methodology;
 2. avoiding, relocating, or mitigating all saguaros within the proposed pipeline alignment Right-of-Way;
 3. replacing saguaros that are too large to transplant at a 3:1 ratio;
 4. monitoring transplanted and replacement saguaros for a period of five years;
 5. ensuring an 80 percent survival rate of all transplanted saguaros after five years; and
 6. if the survival rate at the end of five years is less than 80 percent, purchasing, planting, and monitoring additional saguaros for a five year period until the 80 percent survival rate is achieved.

Thank you for your continued coordination. No further section 7 consultation is required for this project at this time. Should project plans change, or if information on the distribution or abundance of listed species or critical habitat becomes available, this determination may need to be reconsidered. In all future correspondence on this project, please refer to the consultation number 22410-2009-I-0090. We also encourage you to coordinate the review of this project with the Arizona Game and Fish Department. Should you require further assistance or if you have any questions, please contact Marit Alanen at (520) 670-6150 (x234) or Jim Rorabaugh (x230).

/ s / Sherry Barrett for
Steven L. Spangle

cc (hard copy):

Field Supervisor, Fish and Wildlife Service, Phoenix, AZ (2)
Assistant Field Supervisor, Fish and Wildlife Service, Tucson, AZ
Fish and Wildlife Service, Tucson, AZ (Attn: Marit Alanen)

cc (electronic copy):

Chief, Habitat Branch, Arizona Game and Fish Department, Phoenix, Arizona
Regional Supervisor, Arizona Game and Fish Department, Tucson, Arizona

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