

RECLAMATION

Managing Water in the West

Draft Environmental Assessment

Miami Water Exchange

**Proposed Water Exchange between Freeport-McMoRan Miami Inc.
and Salt River Project**



**U.S. Department of the Interior
Bureau of Reclamation
Phoenix Area Office**

July 2016

Mission Statements

The mission of the Department of the Interior is to protect and provide access to our Nation's natural and cultural heritage and honor our trust responsibilities to Indian Tribes and our commitments to island communities.

The mission of the Bureau of Reclamation is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public.

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Acronyms and Abbreviations

ADWR	Arizona Department of Water Resources	LPC	Lower Pinal Creek
AFA	acre-feet annually	M&I	municipal and industrial
ARS	Arizona Revised Statutes	Miami	Phelps Dodge Miami Inc. (now known as Freeport-McMoRan Miami Inc., formerly Cyprus Miami Mining Corporation)
CAP	Central Arizona Project	NEPA	National Environmental Policy Act
CAWCD	Central Arizona Water Conservation District	P.L.	Public Law
CEQ	Council on Environmental Quality	Project Water	water made available for use via the CAP system
CFR	Code of Federal Regulations	Reclamation	U.S. Department of the Interior, Bureau of Reclamation
CRBPA	Colorado River Basin Project Act	SRP	Salt River Project Agricultural Improvement and Power District and Salt River Valley Water Users Association
EA	Environmental Assessment		
EIS	Environmental Impact Statement		
EO	Executive Order		
EPA	U.S. Environmental Protection Agency		
FONSI	Finding of No Significant Impact		
ITA	Indian Trust Asset		

1.0 INTRODUCTION

The U.S. Department of the Interior, Bureau of Reclamation (Reclamation) proposes to approve an Exchange Agreement between Phelps Dodge Miami Inc. (now known as Freeport-McMoRan Miami Inc., formerly Cyprus Miami Mining Corporation, and referred to herein as “Miami”) and the Salt River Project Agricultural Improvement and Power District and Salt River Valley Water Users Association (collectively SRP). Reclamation, the Central Arizona Water Conservation District (CAWCD), and Miami entered into Subcontract No. 07-XX-30-W0514 in 2007 (CAP Subcontract; Appendix A). The CAP Subcontract provides the ability for Miami to exchange water service from CAP water supplies (Project Water) for Non-Project Water. An exchange is necessary because Miami does not have the physical means to accept delivery of Project Water. The Exchange Agreement allows Miami to divert surface water, including subsurface flow collected in shallow alluvial wells, from Pinal Creek in exchange for delivery and use of Project Water to SRP. In addition to approval of the Exchange Agreement, the CAP Subcontract states that Miami obtain final environmental clearance from the United States (acting through the Secretary of the Interior) for the delivery and use of Non-Project Water to be received in the exchange.

Pursuant to Section 4.3(f) of the CAP Subcontract and in accordance with the *Final Environmental Impact Statement – Water Allocations and Water Service Contracting* (FES 82-7, filed March 19, 1982), this environmental assessment (EA) documents the environmental review of the proposed action under the National Environmental Policy Act of 1969 (NEPA), as amended. The objectives of this EA are to facilitate the evaluation of the potential effects of the proposed action on the human and natural environment and to provide interested parties with an awareness of the project and an opportunity to participate in Reclamation’s NEPA process regarding the proposed exchange.

1.1 Background

The rights to use water from the Colorado River are shared by seven Colorado River basin states, tribes, and Mexico. Rights to the Colorado River are determined by Federal legislation, court decisions and decrees, contracts, compacts, international treaty, and administrative decisions, which in combination create the “Law of the River.” Included within the Law of the River is the Colorado River Basin Project Act (CRBPA), passed by Congress on September 30, 1968 (Public Law [P.L.] 90-537). The CRBPA authorizes the Secretary of the Interior, acting through Reclamation, to build, operate, and maintain the CAP system. The CAP system is a water project comprised of a system of pumping plants, canals, aqueducts, tunnels, dams, and reservoirs, which delivers water for irrigation, municipal, and industrial uses to central and southern Arizona, and by exchange, to users in other water deficient areas. The CAWCD was formed to repay the Federal government for the construction cost of the CAP, to contract for delivery of Colorado River water, and to operate and maintain the CAP system. The CRBPA also provides the Secretary of the Interior with the authority to execute contracts for water made available for use via the CAP system (Project Water).

The CAP Subcontract provides Miami with a maximum allocation of 2,906 acre-feet annually of Project Water for municipal and industrial (M&I) uses including but not limited to underground storage. As acknowledged in the CAP Subcontract, Miami is physically unable to take direct delivery of Project Water due to the location of the Miami Mine Complex (Figure 1).

Accordingly, the CAP Subcontract provides that the allocation of Project Water to Miami is intended to be exchanged for Non-Project Water.

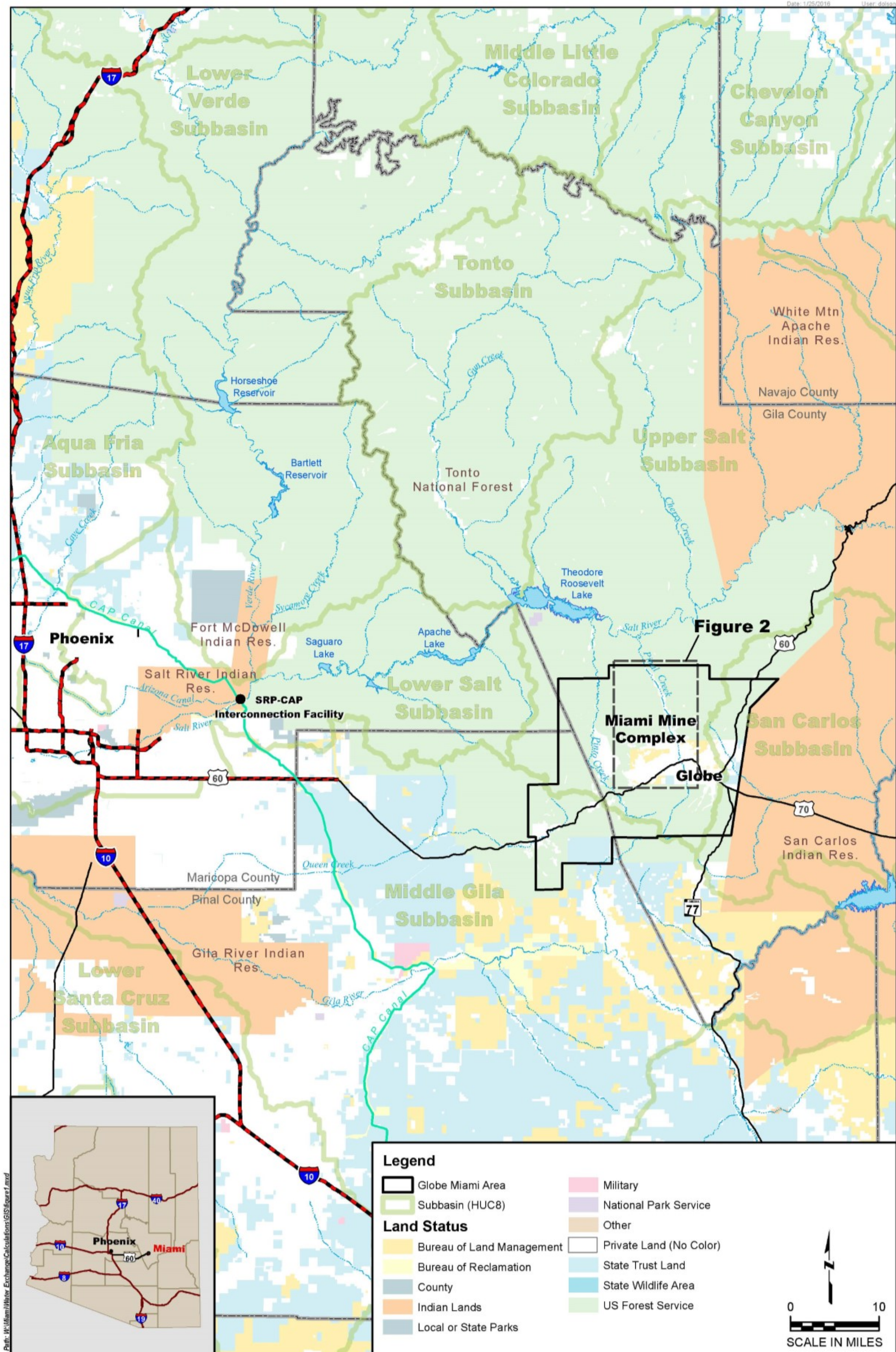
SRP has the physical capability to take and use Project Water and holds certain rights to the Salt River and its tributaries, including Pinal and Pinto creeks, which are proximate to the Globe-Miami area, including the Miami Mine Complex. Therefore, SRP is in a position to facilitate the exchange contemplated by Miami's CAP Subcontract, and accordingly, SRP and Miami signed an Exchange Agreement (Appendix B) (2005). The Exchange Agreement allows Miami to divert surface water, including subsurface flow collected in shallow alluvial wells, from Pinal Creek in exchange for delivery and use of Project Water to SRP. An overview of the Miami Mine and Pinal Creek geographic area and the primary components of existing water infrastructure in the area is provided in Figure 2.

The Arizona Department of Water Resources (ADWR) administers surface water rights in Arizona. In 1992, the state passed the Water Exchange Act, codified in Title 45, Chapter 4, Article 3 of the Arizona Revised Statutes (ARS) to authorize and regulate water exchanges. Under ARS § 45-1001(6), "water exchange" is defined as "a trade between one or more persons...of any water for any other water, if each party has a right or claim to use the water it gives in trade." The rule specifically prescribes the following (ADWR, 1994):

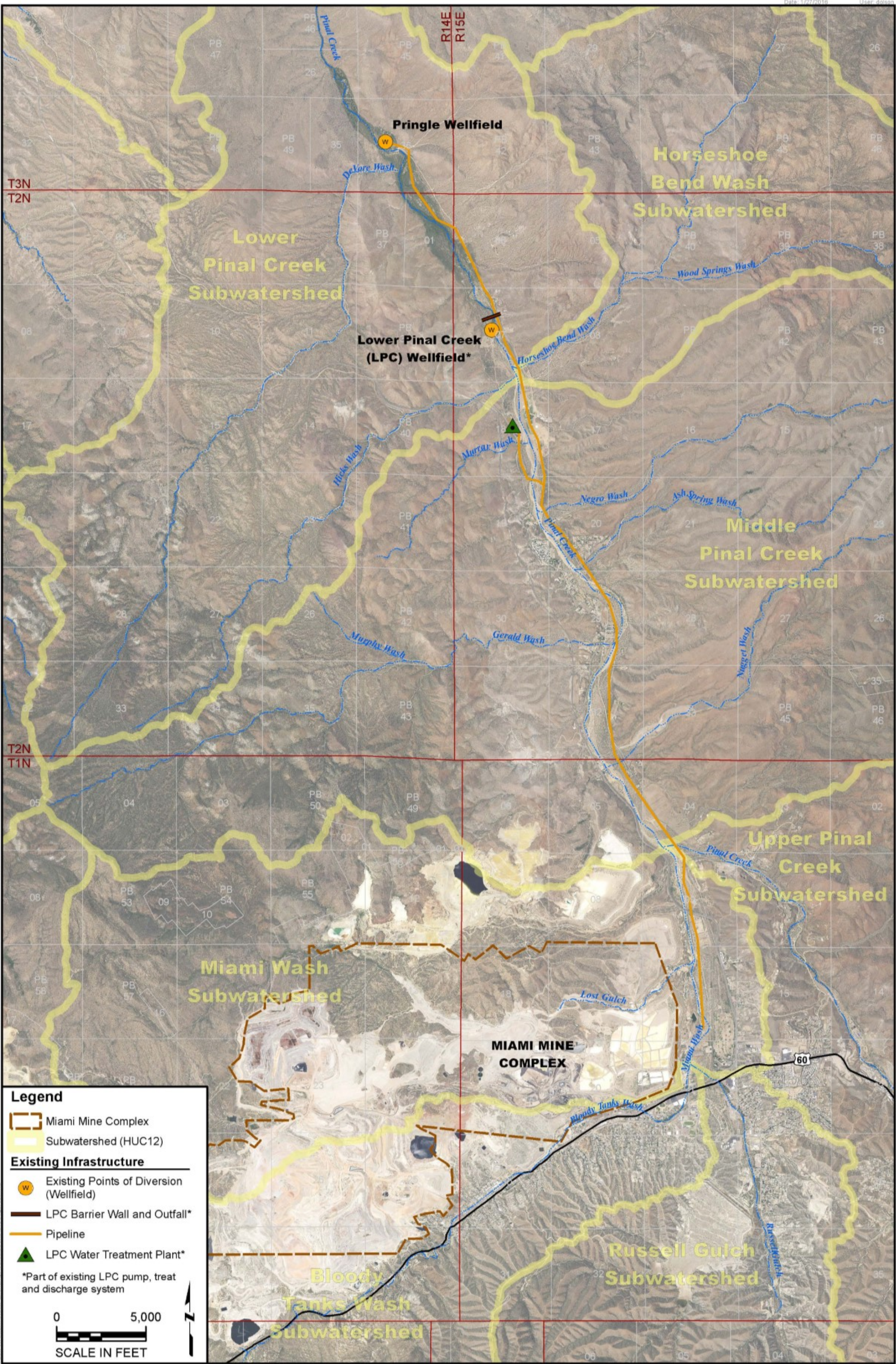
1. Each party to an exchange must hold a legal right to use the water that party gives in the exchange. Each party may divert, withdraw and use the water it receives without holding a legal right to use the water, other than the contractual right to use the water afforded by the exchange contract.
2. Each party to an exchange may use the water received only in the same manner that party could have used the water it gave in the exchange.
3. Each party to an exchange must comply with all laws relating to the water that party gave in the exchange.

The ADWR issued Water Exchange Permit (Specific Use) No. 68-208833 (Water Exchange Permit; Appendix C) jointly to Miami and SRP to conduct the exchange (2006). "Specific Use" indicates that the permit is specific to the proposed exchange, allowing the parties to trade specific sources of water in specific quantities for use in specific locations. Pursuant to ARS § 45-1041, the application process required that Miami and SRP demonstrate to ADWR compliance with the following:

1. The water exchange will be made pursuant to a written contract.
2. The water exchange will not affect vested rights to water.
3. Each party to the water exchange contract has a right to the water the party will give in the water exchange.



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4. Generally, each party to the water exchange contract must receive in return at least ninety percent of the quantity of water that the party gives in the water exchange (unless otherwise authorized by law and ADWR determines the exchange is beneficial to water management in the state).

The Water Exchange Permit specifies the maximum annual amount of each source of water to be exchanged, the geographic areas of the exchange, and the location of use. The Water Exchange Permit also specifies that failure to exchange water for five or more consecutive years may result in the revocation of the permit.¹ On December 2, 2014, ADWR granted Miami an extension of time until December 2, 2019 to pursue and secure final environmental clearance required to execute deliveries under the Water Exchange Permit (Appendix C).

1.2 Purpose and Need

In accordance with its responsibility to manage the allocation and delivery of Colorado River water, Reclamation's purpose is to approve the Exchange Agreement and provide final environmental clearance, on behalf of the Secretary of the Interior, for the diversion of Non-Project Water as proposed in the Exchange Agreement and Water Exchange Permit. The proposed exchange would facilitate the delivery of Non-Project Water supply to Miami in exchange for delivery of Project Water to SRP. Reclamation's final environmental clearance is needed pursuant to Section 4.3(f) of the Miami CAP Subcontract "for the diversion of Non-Project Water...and for the system or systems through which Non-Project Water is to be conveyed after its diversion by [Miami]. Such system(s) shall include all pipelines, canals, distribution systems, treatment, storage, and other facilities through or in which Non-Project Water is conveyed, stored, or treated after its diversion by [Miami]" (Appendix A).

2.0 PROPOSED ACTION AND ALTERNATIVES

2.1 Proposed Action

Reclamation proposes to approve the Exchange Agreement between Miami and SRP. Under the proposed action, SRP would provide up to 2,906 acre-feet per year of its surface water (Non-Project Water, including subsurface flow collected in shallow alluvial wells) to Miami. In exchange, Miami would provide an equal amount (up to 2,906 acre-feet per year) of its water made available for use via the CAP system (Project Water). Because the exchange would use existing water systems, the proposed action would not result in new construction, infrastructure, or ground disturbing activities or change in land use. In addition, the proposed action would not increase the amount of water that is currently diverted from Lower Pinal Creek using Miami's available surface water rights. The proposed action would enable the implementation of the Exchange Agreement between SRP and Miami through the CAWCD for the actual delivery of Project water.

¹ Except for reasons beyond the control of the permit holders; pursuant to ARS § 45-1046(A)(3).

Under the terms of the Water Exchange Permit, the SRP surface water would be used on land within the boundaries of the Miami Mine Complex (Figure 1, Figure 2) and would be delivered from existing points of diversion, listed in Table 1 and depicted in Figure 3. Miami's CAP allocation of Project Water would be used within SRP's irrigation district boundaries and would be delivered to SRP from the existing CAP/SRP Interconnection Facility (Figure 1).²

The existing points of diversion listed in Table 1 include the active and inactive wells of the Pringle and Lower Pinal Creek (LPC) wellfields. Points of measurement specified in the Exchange Agreement include the Pringle Pump Station and the LPC Water Treatment Plant. These existing facilities, along with existing, primary pipelines are depicted in Figure 1, Figure 2, and Figure 3. These systems are further explained herein.

The wells in the Pringle wellfield (including points of diversion 4 through 10 as listed in Table 1) report to Pringle Pump Station. The Pringle Pump Station and related pipelines would be used to convey Non-Project Water to the Miami Mine Complex for consumptive M&I use.

Points of diversion 12 through 29 report to the LPC Water Treatment Plant. The LPC Water Treatment Plant and barrier wall (Figure 2) were constructed by Miami as part of an agreement under the Arizona Water Quality Assurance Revolving Fund. The shallow, alluvial surface water impacted by historical mining is pumped at the LPC wellfield, upstream of the barrier wall. The water is treated at the LPC Water Treatment Plant and is then discharged/released back into Lower Pinal Creek at the outfall, downgradient of the barrier wall. Since the same amount of water is pumped, treated, and discharged/ released, minimal consumptive water use is observed through the LPC wellfield/treatment plant system.

The inactive points of diversion listed in Table 1 are not currently in operation, but are existing wells that could be placed into service. Replacement wells might also be necessary in the future. However, the need to install a replacement well for an existing point of diversion would happen regardless of whether the proposed action is implemented. Therefore, the potential for replacement wells is beyond the scope of Reclamation's decision-making and this EA.³

Table 1 Points of Diversion in the Exchange Agreement

Points of Diversion	ADWR Registration Number	Name	Status	Location
1	55-609999	ICC-1	Inactive	SW of SE of SW of Section. 4, TIN, R15E
2	55-610021	ICC-59A	Inactive	NW of NE of NW of Section 29, T2N, R15E
3	55-610036	Fodera	Inactive	NE of SE of NW of Section 29, T2N, R15E

² Other points of delivery (to Miami and/or to SRP) could be used, but would first require agreement by SRP and Miami. This potential is considered to be remote and speculative, and thus, is not further contemplated in this EA.

³ Section 11.6 of Reclamation's NEPA Handbook (2012) states (emphasis added) "There are several additional tests, all somewhat related and overlapping, which can be applied to appropriately limit the scope (*i.e.*, identify when to determine enough is enough). The first is the "but for" argument. This consists of determining what would happen in the environment "but for" the proposed action. **Those changes that would occur in the environment regardless of whether the proposed action is implemented are not analyzed as impacts of the proposed action.**"

Points of Diversion	ADWR Registration Number	Name	Status	Location
4	55-610037	Pringle 1A	Active	NE of SW of NW of Section 36, T3N, R14E
5	55-610038	Pringle 2	Active	SE of SW of NW of Section 36, T3N, R14E
6	55-610039	Pringle 3	Active	NE of NW of SW of Section 36, T3N, R14E
7	55-610040	Pringle 4	Active	NW of NE of SW of Section 36, T3N, R14E
8	55-610041	Pringle 6	Active	NE of NE of SW of Section 36, T3N, R14E
9	55-610042	Pringle 7	Active	NW of NE of SW of Section 36, T3N, R14E
10	55-610043	Pringle 8	Active	NE of SW of NW of Section 36, T3N, R14E
11	55-610052	Schornick Ranch	Inactive	SE of NE of SW of Section 7, T2N, R15E
12	55-565287	LPC CW 1	Active	SW of SE of NW of Section 7, T2N, R15E
13	55-565284	LPC CW 2	Active	SW of SE of NW of Section 7, T2N, R15E
14	55-565285	LPC CW 3	Active	SE of SE of NW of Section 7, T2N, R15E
15	55-565289	LPC CW 4	Active	SE of SE of NW of Section 7, T2N, R15E
16	55-565286	LPC CW 5	Active	SE of SE of NW of Section 7, T2N, R15E
17	55-565288	LPC CW 6	Active	SE of SE of NW of Section 7, T2N, R15E
18	55-565989	LPC CW 7	Active	SW of SE of NW of Section 7, T2N, R15E
19	55-566693	LPC CW 8	Active	SE of SE of NW of Section 7, T2N, R15E
20	55-581920	LPC CW 9	Active	SW of SE of NW of Section 7, T2N, R15E
21	55-581921	LPC CW 10	Active	SW of SE of NW of Section 7, T2N, R15E
22	55-581922	LPC CW 11	Active	SW of SW of NW of Section 7, T2N, R15E
23	55-581923	LPC CW 12	Active	SE of SE of NW of Section 7, T2N, R15E
24	55-581924	LPC CW 13	Active	SW of SE of NW of Section 7, T2N, R15E
25	55-581925	LPC CW 14	Active	SE of SE of NW of Section 7, T2N, R15E
26	55-581926	LPC CW 15	Active	SW of SE of NW of Section 7, T2N, R15E
27	55-581927	LPC CW 16	Active	SE of SE of NW of Section 7, T2N, R15E
28	55-581928	LPC CW 17	Active	SE of SE of NW of Section 7, T2N, R15E
29	55-581929	LPC CW 18	Active	SE of SE of NW of Section 1, T2N, R15E
30	524923	SRP-1	Inactive	NW of NE of NE of Section 19, T2N, R15E
31	524925	SRP-2	Inactive	NW of NE of NE of Section 19, T2N, R15E
32	526596	SRP-3	Inactive	NE of NE of NE of Section 19, T2N, R15E
33	530317	SRP-4	Inactive	NE of NE of NE of Section 19, T2N, R15E
34	540408	SRP-5	Inactive	NE of NE of NE of Section 19, T2N, R15E
35	624867	See Ranch Standby	Inactive	SW of SW of SW of Section 6, T2N, R15E
36	624868	See Ranch	Inactive	NW of SW of SW of Section 6, T2N, R15E
37	649751	Mitchell Ranch 1	Inactive	NW of SE of NW of Section 7, T2N, R15E
38	649752	Mitchell Ranch 2	Inactive	NW of SE of NW of Section 7, T2N, R15E
39	555536	LPC 6	Inactive	SW of SE of NW of Section 7, T2N, R15E
40	555535	LPC 7	Inactive	SW of SE of NW of Section 7, T2N, R15E

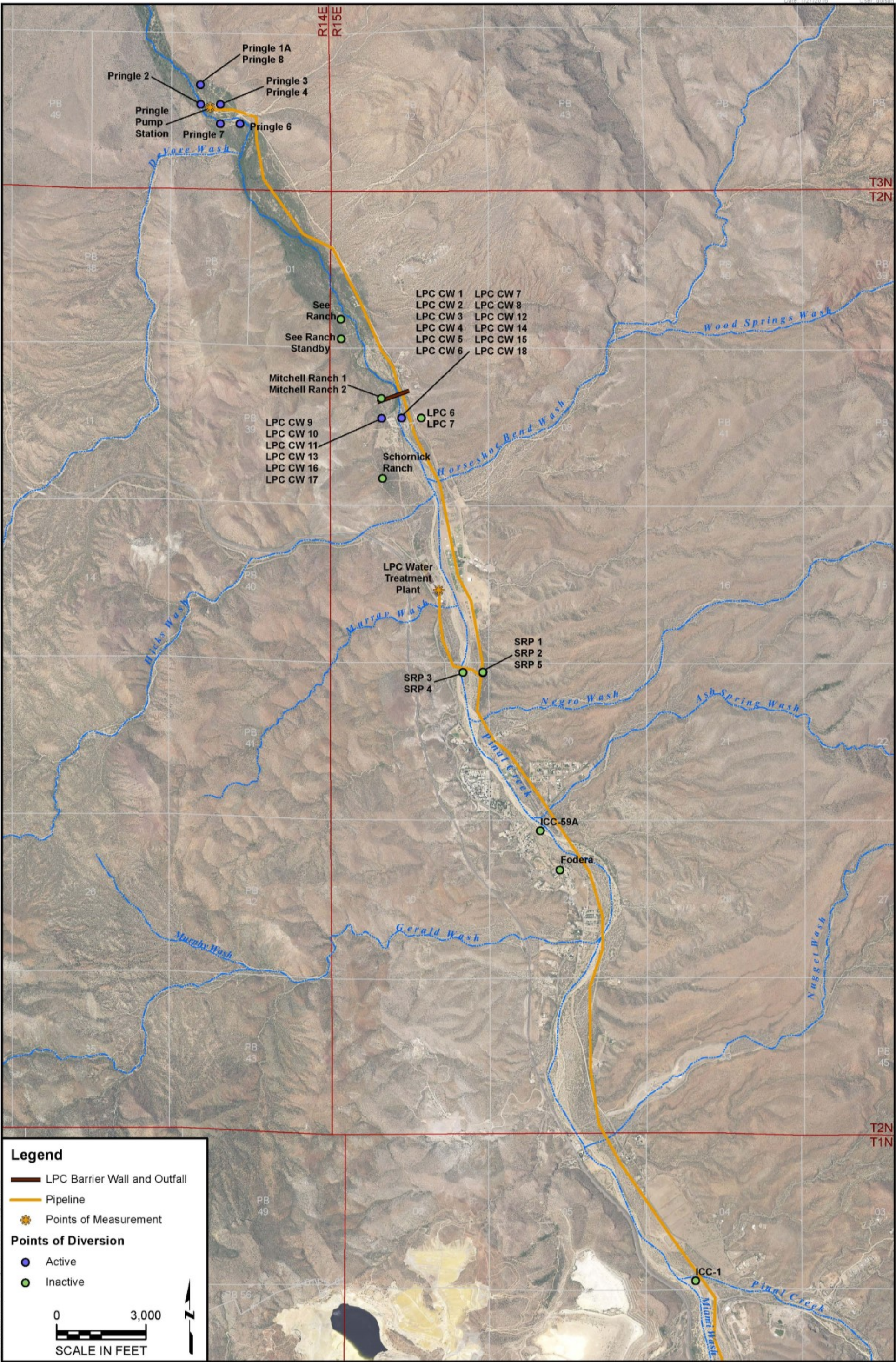
Under the proposed action, Reclamation would provide final environmental clearance for the diversion of SRP's surface water using Miami's shallow alluvial wells located in Lower Pinal Creek to capture subsurface flow (Non-Project Water) and Miami's water delivery systems to convey, store, or treat the water. As listed above, the points of diversion (wells) and the systems through which the water is to be conveyed, stored, and/or treated for use at the Miami Mine Complex are already existing infrastructure. Hence, the proposed action would not result in new construction, infrastructure, or ground disturbing activities. Under the proposed action, no physical changes to water delivery, conveyance, storage, or treatment infrastructure would be necessary.

Further, the right of each of the parties to use up to 2,906 acre-feet per year of the respective water supplies has been evaluated by the ADWR and determined to be valid via the issuance of the Water Exchange Permit. Therefore, the proposed action would not result in a change to the amount or volume of water that could be withdrawn and used.

CAP Water (Project Water) delivered to SRP would replace the Non-Project Water that SRP would have used within its irrigation district boundaries under the no action alternative. Because the proposed action does not result in a new water demand or change water use, this EA does not analyze SRP's use of the Project Water.

2.2 No Action Alternative

Under the no action alternative, Reclamation would not approve the Exchange Agreement and would not provide final environmental clearance for the diversion of Non-Project Water and the systems to convey, store, or treat the water. Miami would not implement the proposed exchange with SRP for the surface water in Pinal Creek (Non-Project Water) for its CAP allocated Project Water. Rather, under the no action alternative, Miami would continue to divert surface water from Lower Pinal Creek using the same infrastructure as described under Section 2.1, relying instead on Miami's available surface water rights (up to 2,906 acre-feet per year). Under the no action alternative, SRP would continue to use Non-Project Water within its irrigation district boundaries.



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3.0 AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES

3.1 Proposed Action

The proposed action would not result in new construction, infrastructure, or ground disturbing activities or change in land use. There would be no effect to hydrological systems, biological resources, land use, air quality, or soils. With no physical changes to the environment, the proposed action, similarly, would be anticipated to result in no impact to stakeholders, agencies, or people associated with or living near the mine property or project area. Potential environmental issues considered are listed in Table 2. Reclamation has determined that there would be no effect to each of the resource areas and environmental issues considered.

3.2 No Action Alternative

Under the no action alternative, there would be no impact to environmental resources; Miami would continue to divert surface water from Lower Pinal Creek as described in Section 2.2. The proposed action and no action alternative do not change the water demand for the Miami Mine Complex. Under the no action alternative, Miami would continue to divert surface water from Lower Pinal Creek using the same infrastructure as described under Section 2.1, relying on Miami's available surface water rights rather than SRP's surface water rights (up to 2,906 acre-feet per year).

Table 2 Effects Determination for Specified Environmental Issues

	Exclusion Category	No	Yes	Uncertain
1.	This action or group of actions will have a significant effect on the quality of the human environment.	X		
2.	This action or group of actions will involve unresolved conflicts concerning alternative uses of available resources.	X		
3.	This action will have significant adverse effects on public health or safety.	X		
4.	This action will have an adverse effect on unique geological features such as wetlands, wild or scenic rivers, rivers placed on the nationwide river inventory, refuges, floodplains, or prime or unique farmland.	X		
5.	This action will have highly controversial effects.	X		
6.	This action will have highly uncertain environmental effects or involve unique or unknown environmental risk.	X		
7.	This action will establish a precedent for future actions.	X		
8.	This action is related to other actions with individually insignificant by cumulative significant environmental effects.	X		
9.	This action will adversely affect properties listed or eligible for listing in the National Register of Historic Places.	X		
10.	This action will adversely affect a species listed or proposed to be listed as endangered or threatened.	X		
11.	This action threatens to violate Federal, state, local, executive or Secretarial orders, tribal law or requirements for protection of the environment.	X		
12.	This action will affect Indian Trust Assets.	X		
13.	This action will have a disproportionately high and adverse human health and environmental effects on low income or minority populations.	X		

	Exclusion Category	No	Yes	Uncertain
14.	This access will limit access to and ceremonial use of Indian sacred sites on Federal land by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites.	X		
15.	This action will contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote introduction, growth, or expansion of the range of such species.	X		

4.0 SELECTED ENVIRONMENTAL LAWS/ DIRECTIVES

4.1 National Environmental Policy Act

The National Environmental Policy Act of 1969, as amended (NEPA; P.L. 91-190) requires Federal agencies to evaluate the potential environmental consequences of major Federal actions. NEPA is intended to promote consideration of environmental impacts in the planning and decision-making process prior to project implementation and requires full public disclosure about a proposed action, accompanying alternatives, impacts, and possible mitigation. This EA has been prepared in accordance with Council on Environmental Quality (40 CFR 1500-1508) and Department of the Interior NEPA regulations (43 CFR 46).

4.2 Fish and Wildlife Coordination Act

The Fish and Wildlife Coordination Act (P.L. 85-624) provides a procedural framework for the consideration of fish and wildlife conservation measures in Federal water resource development projects. The proposed action would not result in new water diversions or impoundments; consequently, coordination pursuant to the act is not required.

4.3 Endangered Species Act

The Endangered Species Act of 1973 (P.L. 93-205) is designed to protect and recover imperiled species and the ecosystems upon which they depend. Section 7(a)(2) of the act requires cooperation and consultation with the U.S. Fish and Wildlife Service to ensure that Federal actions are not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat.

The proposed action would require no physical change to the environment, vegetation, or current land use, and thus Reclamation has concluded that the proposed action have no effect on Federally listed threatened or endangered species or their critical habitat and a biological assessment is not necessary.

4.4 Migratory Bird Treaty Act

The Migratory Bird Treaty Act of 1918, as amended implements various treaties and conventions between the United States and Canada, Japan, Mexico, and the former Soviet Union for the

protection of migratory birds. The act prohibits the take, possession, import, export, transport, selling, or purchase of any migratory bird, their eggs, parts, or nests. The proposed action would have no effect on species protected by the Migratory Bird Treaty Act.

4.5 Clean Air Act

The Clean Air Act of 1963 requires compliance with applicable air pollution control laws and regulations, including compliance with the National Ambient Air Quality Standards. The proposed action would have no effect on air quality.

4.6 Clean Water Act

The Clean Water Act of 1972, as amended (P.L. 92-500) establishes the basic structure for regulating discharges of pollutants into the nation's rivers, lakes, estuaries, and coastal waters. The proposed action would not cause or contribute to the discharge of pollutants into waters of the U.S.

4.7 Wild and Scenic Rivers Act

The Wild and Scenic Rivers Act of 1968 (P.L. 90-542) designates the components of the National Wild and Scenic River System and establishes procedures for including other rivers or reaches of rivers that possess outstanding characteristics. The proposed action would have no effect on wild and scenic rivers.

4.8 Wilderness Act

The Wilderness Act of 1964, as amended (P.L. 88-577) establishes the National Wilderness Preservation System comprised of federally owned land designated by Congress as "wilderness areas." The proposed action would have no effect on designated wilderness areas or areas eligible for designation.

4.9 National Historic Preservation Act

The National Historic Preservation Act of 1966, as amended (P.L. 89-665) provides for the protection of historic and prehistoric sites that are eligible for listing on the National Register of Historic Places. Federal agencies are required to take into account the effects of their actions on historic properties, and provide stakeholders with a reasonable opportunity to comment on those actions and the manner in which Federal agencies are taking historic properties into account in their decisions. The proposed action would have no effect on cultural resources. Further coordination or consultation pursuant to National Historic Preservation Act is not required.

4.10 Farmland Protection Policy Act

The Farmland Protection Policy Act (P.L. 97-98) requires identification of proposed actions that would adversely affect land classified as prime and unique farmland to minimize the unnecessary and irreversible conversion of farmland to nonagricultural uses. The U.S. Department of Agriculture's Natural Resources and Conservation Service administers this law. There would be

no changes to current agricultural activities as a result of the proposed action, and there would be no effect to prime and unique farmland.

4.11 Floodplain Management

Executive Order (EO) 11988 for floodplain management encourages Federal agencies to avoid short- and long-term adverse impacts associated with floodplain development. The proposed action would have no effect on floodplains and would not increase the risk of floods.

4.12 Environmental Justice

EO 12898 requires Federal agencies to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of Federal actions on minority populations and low-income populations. Pursuant to EO 12898, this EA concludes that the proposed action would have no effect on human health or the environment and would not cause disproportionately high or adverse effects to minority and low-income populations.

4.13 Wetlands

EO 11990 requires Federal agencies to minimize the destruction, loss, or degradation of wetlands and preserve and enhance the natural and beneficial values of wetlands in carrying out their land management responsibilities. The proposed action would not affect wetlands.

4.14 Indian Trust Assets

Indian Trust Assets (ITAs) are legal interests in assets held in trust by the United States for Native American tribes or individual Native Americans. These assets can be real property or intangible rights including land, minerals, water rights, hunting rights, money, and other natural resources. The trust responsibility requires that Federal agencies take action reasonably necessary to protect ITAs. The proposed action would have no effect on ITAs.

4.15 Arizona Water Quality Assurance Revolving Fund

Miami operates the LPC Wellfield and Treatment Plant as part of the remediation of the Pinal Creek Site under the Water Quality Assurance Revolving Fund administered by the Arizona Department of Environmental Quality. Over 60 wells, four surface water sites, and effluent from the LPC Treatment Plant are monitored for water quality on a monthly basis. The proposed action would have no effect on the remediation effort.

5.0 LIST OF PREPARERS

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6.0 CONSULTATIONS

An electronic copy of this Draft EA has been posted for public viewing and comment on Reclamation's Phoenix Area Office website www.usbr.gov/lc.phoenix/. Notice of the availability and copies of the Draft EA have been distributed electronically to the following entities:

- Federal agencies
 - U.S. Army Corps of Engineers
 - U.S. Department of Agriculture, Forest Service
 - U.S. Fish and Wildlife Service
 - U.S. Department of the Interior, Bureau of Land Management
- State agencies
 - Arizona Department of Environmental Quality
 - Arizona Department of Water Resources
 - Arizona Game and Fish Department
 - Arizona State Historic Preservation Officer
 - Arizona State Land Department
- Local agencies
 - City of Globe
 - Gila County
 - Town of Miami
- Tribal entities
 - Fort McDowell Yavapai Nation
 - San Carlos Apache Tribe
 - Tonto Apache Tribe of Arizona
 - White Mountain Apache Tribe of the Fort Apache Reservation
 - Yavapai-Apache Nation of the Camp Verde Indian Reservation
- Others
 - Central Arizona Water Conservation District
 - Globe-Miami Chamber of Commerce
 - Salt River Project
 - Southern Gila County Economic Development Corporation

7.0 REFERENCE LIST

- ADWR. (1994). *Summary of the 1992 Water Exchange Act*. Phoenix: Arizona Department of Water Resources. Retrieved December 4, 2015, from <http://www.azwater.gov/azdwr/Legal/LawsRulesPolicies/documents/WaterExchange-WX1.pdf>
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**APPENDIX A
PORTIONS OF CAP SUBCONTRACT**

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Excerpts reprinted from:

Subcontract No. 07-XX-30-W0514

**UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION**

**SUBCONTRACT AMONG THE UNITED STATES,
THE CENTRAL ARIZONA WATER CONSERVATION DISTRICT,
AND THE PHELPS DODGE MIAMI, INC.
PROVIDING FOR WATER SERVICE**

CENTRAL ARIZONA PROJECT

1. PREAMBLE:

THIS SUBCONTRACT, made this 17th day of October, 2007, in pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, including but not limited to the Boulder Canyon Project Act of December 21, 1928 (45 Stat. 1057), as amended, the Reclamation Project Act of August 4, 1939 (53 Stat. 1187), as amended, the Reclamation Reform Act of October 12, 1982 (96 Stat. 1263), and particularly the Colorado River Basin Project Act of September 30, 1968 (82 Stat. 885), as amended, and the Arizona Water Settlements Act (118 Stat. 3478), all collectively hereinafter referred to as the "Federal Reclamation Laws," among the UNITED STATES OF AMERICA, hereinafter referred to as the "United States" acting through the Secretary of the Interior, the CENTRAL ARIZONA WATER CONSERVATION DISTRICT, hereinafter referred to as the "Contractor," a water conservation district organized under the laws of Arizona, with its principal place of business in Phoenix, Arizona, and PHELPS DODGE MIAMI, INC. hereinafter referred to as the "Subcontractor," with its principal place of business in Claypool, Arizona;

4. DELIVERY OF WATER:

4.3 Conditions Relating to Delivery and Use. Delivery and use of water under this subcontract is conditioned on the following, and the Subcontractor hereby agrees that:

(f) Notwithstanding any other provision of this subcontract, Project Water shall not be made available to the Subcontractor for the purposes of exchange pursuant to the Exchange Agreement unless and until the Subcontractor has obtained final environmental clearance from the United States for the diversion of Non- Project water

proposed in the Exchange Agreement and for the system or systems through which Non-Project water is to be conveyed after its diversion by the Subcontractor. Such system(s) shall include all pipelines, canals, distribution systems, treatment, storage, and other facilities through or in which Non-Project water is conveyed, stored, or treated after its diversion by the Subcontractor. In each instance, final environmental clearance will be based upon a review by the United States of the Subcontractor's plans for taking and using Non-Project water and will be given or withheld by the United States in accordance with the Final Environmental Impact Statement – Water Allocations and Water Service Contracting (FES 82-7, filed March 19, 1982) and the National Environmental Policy Act of 1969 (83 Stat. 852). Any additional action(s) required on behalf of the Subcontractor in order to obtain final environmental clearance from the United States will be identified to the Subcontractor by the United States, and no Project Water shall be made available to the Subcontractor for the purposes of exchange unless and until the Subcontractor has completed all such action(s) to the satisfaction of the United States.

**APPENDIX B
EXCHANGE AGREEMENT**

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**AGREEMENT BETWEEN PHELPS DODGE CORPORATION AND
THE SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT AND THE
SALT RIVER VALLEY WATER USERS' ASSOCIATION FOR EXCHANGE OF WATER FROM
PINAL AND PINTO CREEKS FOR CENTRAL ARIZONA PROJECT WATER**

1. PREAMBLE: THIS AGREEMENT, made this 4th day of February, 2005, between PHELPS DODGE CORPORATION (hereinafter referred to as "Phelps Dodge") and the SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT and the SALT RIVER VALLEY WATER USERS' ASSOCIATION (hereinafter jointly referred to as the "Salt River Project" or "SRP"), each individually hereinafter called "Party" and collectively called "Parties;"

WITNESSETH THAT:

2. EXPLANATORY RECITALS:

2.1 WHEREAS, due to the location of Phelps Dodge's Miami Mine Complex, Phelps Dodge cannot physically take delivery of its CAP Water, but desires to benefit from its CAP Water entitlement by diverting water from Pinal and Pinto Creeks through an exchange arrangement; and

2.2 WHEREAS, SRP shareholders have certain rights to the Salt River and its tributaries, including Pinal and Pinto Creeks, and SRP has the physical capability to take and use CAP Water, thereby being in position to facilitate an exchange of water from Pinal and Pinto Creeks for CAP Water; and

2.3 WHEREAS, SRP is willing to facilitate such an exchange on the terms set forth herein, and the Parties desire to enter into this Agreement to accomplish such an exchange; and

2.4 WHEREAS, the San Carlos Agreement, as defined below, among other things provides, for the lease of up to 14,000 acre-feet per year in SRP's CSIF capacity.

NOW THEREFORE, in consideration of the mutual and dependent covenants herein, the Parties agree hereto as follows:

3. DEFINITIONS:

3.1 "AACC" shall mean the additional active conservation capacity of Modified Theodore Roosevelt Dam pursuant to the Plan 6 Agreement.

3.2 "AACC Operating Agreement" shall mean the Operating Agreement for

Additional Active Conservation Capacity at Modified Theodore Roosevelt Dam (executed on December 14, 1992).

3.3 “AACC Participants” shall mean the Arizona cities of Chandler, Glendale, Mesa, Phoenix, Scottsdale, and Tempe who have ownership rights to the AACC pursuant to the Plan 6 Agreement.

3.4 “Annual Index” shall mean the number calculated by dividing the U.S. Department of Commerce’s final estimate of the chain-type annual weights price index for the Gross Domestic Product for the most recently completed third quarter by the value of that same quantity for the third quarter immediately prior thereto.

3.5 “Authorized Representative(s)” shall mean representatives of the Parties appointed to administer the provisions of this Agreement.

3.6 “Central Arizona Project” hereinafter referred to as “CAP,” shall mean the Central Arizona Project, a reclamation project authorized under Title 3 of the Colorado River Basin Project Act of 1968 (43 U.S.C. § 1521, et seq.).

3.7 “CAP Water” shall mean the CAP water Phelps Dodge is entitled to under its CAP Water Delivery Contract No. 3-07-30-W0301, dated August 20, 1993.

3.8 “Credit(s)” shall mean the amount of CAP Water Phelps Dodge delivered to SRP as measured at the United States’ measurement device on the common component of the CSIF and as recorded in the Exchange Account.

3.9 “CSIF” shall mean the CAP/SRP Interconnection Facility located on the Hayden-Rhodes aqueduct of the CAP canal that provides the physical ability for the diversion of CAP Water into the SRP water delivery system.

3.10 “Debit(s)” shall mean the amount of Exchange Water diverted by Phelps Dodge for use at the Miami Mine Complex and within the Globe-Miami Area, as measured at the point(s) of diversion and other measurement locations identified in Exhibit 3.15 and as recorded in the Exchange Account.

3.11 “Exchange Account” shall mean the record of Credits and Debits maintained by SRP pursuant to this Agreement.

3.12 “Exchange Water” shall mean that water diverted pursuant to this Agreement by Phelps Dodge for use at the Miami Mine Complex or within the Globe-Miami Area.

3.13 “Globe-Miami Area” shall mean the area described in Exhibit 3.13(A) and shown on the map attached as Exhibit 3.13(B).

3.14 “Miami Mine Complex” shall mean the lands owned or leased by Phelps Dodge Corporation, now or in the future, delineated in a map as “Phelps Dodge Miami Mine Complex,” which map is dated June 2004, and is attached as Exhibit 3.14.

3.15 “Miami Mine Facilities” shall mean the diversion works, wells, pumping stations, pipelines, and related measurement and reporting equipment located along Pinal and Pinto Creeks, tributaries of the Salt River, which will provide Exchange Water to the Miami Mine Complex under this Agreement. The Miami Mine Facilities are listed in Exhibit 3.15, which may be amended from time to time by the Authorized Representatives.

3.16 “Operating Agency” shall mean the entity authorized by the Bureau of Reclamation to operate, maintain, and replace the CAP water delivery system (currently the Central Arizona Water Conservation District).

3.17 “Phelps Dodge Corporation” shall mean Phelps Dodge Corporation, a New York corporation, Phelps Dodge Development Corporation, a Delaware corporation, Phelps Dodge Miami, Inc., a Delaware corporation, Pacific Western Land Company, a California corporation, and their predecessors, affiliates, successors and assigns.

3.18 “Plan 6 Agreement” shall mean the agreement dated April 15, 1986, which provided for the funding of Plan 6 facilities of the Central Arizona Project and for other purposes.

3.19 “Salt River Reservoir System” shall mean the system of four dams on the Salt River upstream of the confluence with the Verde River and their associated reservoirs that are operated by SRP.

3.20 “San Carlos Agreement” shall mean the Agreement Among the San Carlos Apache Tribe, the Salt River Project Agricultural Improvement and Power District and the Salt River Valley Water Users’ Association, and the United States Bureau of Reclamation for Exchange of Water from the Black River for Central Arizona Project Water executed on January 24, 2002.

3.21 “SRP Salt River Reservoir Conservation Space” shall mean the capacity of the reservoirs behind Stewart Mountain Dam, Mormon Flat Dam, Horse Mesa Dam and Theodore Roosevelt Dam on the Salt River available to SRP to store water for the benefit of SRP and its

shareholders on a continuous basis for irrigation, power, municipal, industrial or other purposes, as periodically determined by sediment surveys. The amount of SRP Salt River Reservoir Conservation Space shall not exceed SRP's storage rights for these reservoirs as determined in the Gila River Adjudication.

3.22 "Unused Credits" shall mean those Credits in the Exchange Account that were not used as Debits within the month they were delivered to the CSIF.

4. EFFECTIVE DATE AND TERM OF AGREEMENT:

4.1 This Agreement shall become effective upon execution by the Parties and shall remain in effect until the earlier of the following:

4.1.1 Fifty (50) years from the effective date of this Agreement;

4.1.2 The date on which mining operations, including metallurgical processing, ore processing, manufacturing of products derived from metals produced at Phelps Dodge mines in the Globe-Miami area, and environmental remediation, at the Miami Mine Complex or within the Globe-Miami Area are permanently discontinued;

4.1.3 The date of termination of the Phelps Dodge CAP Water Delivery Contract No. 3-07-30-W0301, dated August 20, 1993;

4.1.4 The date of termination due to default pursuant to Article 24 of this Agreement.

4.2 Phelps Dodge may request an extension of the term of this Agreement for an additional fifty (50) years provided, however, that any such extension shall be subject to terms and conditions mutually agreed upon by the Parties at that time.

5. PURPOSE OF AGREEMENT: The purpose of this Agreement is to establish a water exchange to facilitate the Phelps Dodge CAP Water Delivery Contract and to provide for the annual delivery of Exchange Water to Phelps Dodge for use at the Miami Mine Complex or within the Globe-Miami Area in exchange for the annual delivery of Phelps Dodge's CAP Water to SRP, and to provide for payment to SRP of expenses associated with the exchange. Unless otherwise agreed to by SRP and Phelps Dodge in writing, Exchange Water diverted pursuant to this Agreement shall be used or reused only by Phelps Dodge within the Globe-Miami Area for mining, metallurgical processing, ore processing, and related industrial uses for the manufacturing of products derived from metals produced at Phelps Dodge's mines within the

Globe-Miami Area, and environmental compliance or remediation purposes, including evaporation, associated with mining, metallurgical processing, ore processing, and related industrial uses for the manufacturing of products derived from metals produced Phelps Dodge's mines within the Globe-Miami Area, and at no other locations. Phelps Dodge may deliver Exchange Water to third parties for municipal purposes for use within the Globe-Miami Area.

6. EXCHANGE OF WATER:

6.1 Once the notification prescribed in Article 6.6 has been made, Phelps Dodge shall be entitled to divert an amount of Exchange Water equivalent to the amount of CAP Water paid for and scheduled for delivery to SRP in the succeeding year.

6.2 Phelps Dodge shall report to SRP the amount of Exchange Water diverted by Phelps Dodge each month on or before the eighth business day of the following month. Reported amounts shall be recorded and provided as daily totals at the measurement locations listed in Exhibit 3.15 to facilitate accounting activities required by Articles 6.11 and 6.12. At the same time, Phelps Dodge shall also report to SRP the projected amount of diversions during the current month and the following month for each measurement location listed in Exhibit 3.15.

6.3 Water exchanges shall be on a one acre-foot for one acre-foot basis, except as provided in Articles 6.12 and 6.14. Unused Credits shall be subject to reductions as provided in Articles 6.8 and 6.9.

6.4 In no event shall diversions of Exchange Water exceed the amount of CAP Water paid for and scheduled for delivery to SRP in any calendar year.

6.5 Except as provided in Article 6.14, SRP shall record a Credit of one acre-foot in the Exchange Account for every acre-foot of CAP Water received by SRP at the CSIF.

6.6 Phelps Dodge shall pay the Operating Agency in accordance with the Operating Agency's payment policies for the CAP Water to be delivered to SRP at the CSIF. Phelps Dodge shall notify SRP of its initial (first) payment to the Operating Agency for each calendar year. Such notice shall occur prior to the diversion of Exchange Water pursuant to this Agreement. The total of all payments made by Phelps Dodge during the calendar year shall be sufficient to pay all charges and costs of the Operating Agency for the delivery of the amount of CAP Water scheduled for delivery to SRP each month as set forth in SRP's CAP Water monthly delivery schedule.

6.7 Except as provided in Article 6.12, SRP shall record a Debit of one acre-foot in the Exchange Account for every acre-foot of Exchange Water diverted by Phelps Dodge at the Miami Mine Facilities for use within the Globe-Miami Area.

6.8 The Parties shall use their best efforts to limit the amount of Unused Credits at the end of each month. Unused Credits shall be subject to an evaporation charge of one half of one percent (0.5%) per month. Unused Credits remaining after the evaporation charge shall be used first after the month of accrual of such credits. Unused Credits shall be used by December 31 of the year following the year of accrual. Unused Credits existing at 11:59 p.m. on December 31 of the year following the year of accrual, or existing upon termination of this Agreement, shall be immediately reduced to zero in the Exchange Account with the corresponding loss of any right to exchange such Unused Credits under this Agreement.

6.9 Unused Credits shall be subject to spill at such time and to the extent that the SRP Salt River Reservoir Conservation Space is full and the amount of water in the Salt River Reservoir System is increasing. The amount of Unused Credits in the Exchange Account shall be reduced by one acre-foot for each acre-foot that is spilled until all Unused Credits are reduced to zero.

6.10 The reduction of the amount of Unused Credits in the Exchange Account pursuant to Article 6.9 shall occur prior to the reduction of other water credits on the Salt River Reservoir System that have accrued pursuant to any contracts, agreements, decrees, or federal Indian water right settlements that were in effect prior to this Agreement, as well as any credits belonging to the Gila River Indian Community pursuant to the Gila River Indian Community Water Rights Settlement Agreement.

6.11 Diversion of Exchange Water by Phelps Dodge pursuant to this Agreement at the same time that credits are accruing in the AACC pursuant to the AACC Operating Agreement may require SRP to debit the Exchange Account, then credit the AACC accounts of the AACC Participants by the same amount in a manner consistent with the AACC Operating Agreement.

6.12 SRP shall not record a Debit to the Exchange Account for diversions of Exchange Water by Phelps Dodge when the SRP Salt River Reservoir Conservation Space and the AACC in the Salt River Reservoir System are full.

6.13 SRP acknowledges that the ability of Phelps Dodge to provide for the delivery of CAP Water to SRP is subject to the terms and conditions of the Phelps Dodge CAP Water Delivery Contract, including but not limited to the physical capability and condition of the CAP water delivery system and CAP water supply conditions, and forces beyond the control of Phelps Dodge.

6.14 Phelps Dodge acknowledges that (1) it is exclusively responsible for the diversion and use of Exchange Water pursuant to this Agreement, including but not limited to, all capital costs for diversion works, all operating and maintenance costs for the diversion and use of Exchange Water, and any and all water losses incurred between the points of diversion, measurement, and use; and (2) if SRP, in its sole discretion, releases CAP Water into the Salt River bed or other water containment area due to the potential for water quality degradation in SRP's water delivery system that has resulted from, or may result from, the introduction of CAP Water into SRP's water delivery system such that said water cannot meet applicable water quality standards for SRP's water delivery system, then water delivered to the CSIF for the benefit of Phelps Dodge shall not be recorded as a Credit in the Exchange Account. Examples of water quality degradation include, but are not limited to, the introduction of hazardous materials into CAP Water at or above the CSIF.

7. LIMITATIONS ON DIVERSIONS: Diversions of Exchange Water by Phelps Dodge pursuant to this Agreement shall not exceed 2,906 acre-feet per year unless otherwise permitted by applicable law and in writing by SRP.

8. CHARGES:

8.1 Compensation for CSIF Use – To the extent that the projected use of the CSIF under this Agreement plus the projected use of the CSIF under the San Carlos Agreement (“projected, combined use”) is less than or equal to 14,000 acre-feet on a calendar year basis, Phelps Dodge shall not provide additional compensation to SRP for the use of the CSIF beyond that required under the San Carlos Agreement. The projected, combined use shall be the sum of the amounts provided by (1) Article 10.1 of this Agreement, and (2) Article 10.1 of the San Carlos Agreement. To the extent that the projected, combined use is greater than 14,000 acre-feet, Phelps Dodge shall pay to SRP \$10.05 per acre-foot (2005 rate) for each acre-foot above 14,000 acre-feet for the use of SRP's CSIF capacity for the delivery of up to 2,906 acre-feet annually of

CAP Water. Beginning in 2006, the charge for use of the CSIF shall be adjusted each February by multiplying the current CSIF charge amount by the Annual Index. Such new rate shall remain in effect until the next annual adjustment.

8.2 Compensation for Power Loss – Phelps Dodge shall pay SRP each year for estimated lost power revenues resulting from the planned diversion of Exchange Water for use at the Miami Mine Complex and within the Globe-Miami Area. Such amount shall be based upon the formulas set forth in Article 9.2 of this Agreement and shall be subject to adjustment based on the actual amount of Exchange Water diverted by Phelps Dodge and the actual amount of lost power revenue per acre-foot of Exchange Water diverted during the previous year as provided in Article 9.2 of this Agreement.

8.3 Compensation for Administrative Costs – Phelps Dodge shall pay SRP \$4,085.73 per year (2005 rate) to cover administrative costs associated with this Agreement (e.g., accounting and reporting). The charge for administrative costs shall be adjusted each February by multiplying the current charge by the Annual Index. Such charge shall remain in effect until the next annual adjustment.

9. BILLING AND PAYMENT:

9.1 Beginning in calendar year 2006, SRP shall bill Phelps Dodge for the amount described in Article 8.1, if any, and the amount described in Article 8.3 of this Agreement by February 28 of each year, and Phelps Dodge shall pay these amounts by March 31 of that year for services provided or to be provided in that same year. The amount billed pursuant to Article 8.1 of this Agreement shall be adjusted, if necessary, to reflect any difference between the projected, combined use of the CSIF and the actual, combined use of the CSIF during the previous year.

9.2 Beginning in calendar year 2006, SRP shall bill Phelps Dodge for the charge, if any, described in Article 8.2 of this Agreement by February 28 of each year for that year, and Phelps Dodge shall pay this amount by March 31 of that year. The billed amount shall be adjusted to reflect any difference between the amount estimated and paid in the previous year and the actual amount calculated for the previous year using the following formula:

9.2.1 $(E_p \times V) - [P - (E_d \times V)]$, where:

E_p = Exchange Water planned to be diverted in the current year.

V = Value of lost power revenue represented in dollars per acre-foot based on

the data from the previous calendar year computed as follows: $V = (A/B) \times (C/D)$.

P= Paid amount for lost hydrogeneration revenues during the previous year.

Ed= Total acre-feet of Exchange Water diverted by Phelps Dodge during the previous year.

A= Total amount of kilowatt-hours of energy generated by the hydro-electric power plants of the District at the dams on the Salt River during such year, excluding generation associated with pumped storage operation.

B= Total acre-feet of water released from Stewart Mountain Reservoir during such year exclusive of spillway discharges and discharge valve flows.

C= Gross retail revenue of the District in any such year for full service requirements customers, plus revenue for power used by the Association and the District for their own purposes. If the value represented by the term A/B in the preceding formula exceeds 600 kilowatt-hours per acre-foot, the value of the term A/B shall be adjusted to 600 kilowatt-hours per acre-foot for that year.

D= Total kilowatt-hours of power metered by the District for full service requirements customers during such year, including power metered for use by the Association and the District for their own purposes, plus the average system losses for such metered loads.

9.2.2 Beginning in calendar year 2008, and then every five (5) years thereafter, SRP may re-evaluate and implement any adjustments to the formula provided in Article 9.2.1 that would improve the formula's accuracy in estimating the lost power revenues pursuant to Article 8.2 of this Agreement. The adjusted formula shall become effective with the next billing as prescribed in Article 9 and following SRP's notice of adjustment to Phelps Dodge.

9.3 In the event that this Agreement becomes effective and is implemented for any portion of a calendar year after February 28, SRP shall bill the amounts described in Article 8 of this Agreement within thirty (30) days of the execution of this Agreement and Phelps Dodge shall pay the amounts billed in good funds within thirty (30) days of the billing date.

9.4 Payment by Phelps Dodge to SRP pursuant to this Article 9 shall be made in good funds on or before the due dates described. Payments shall be submitted to the address listed on the billing invoice. Payments not received by the due date shall be subject to an interest charge accrued at twelve percent (12%) per annum (prorated by the day) until payment is received.

Payments received shall first be applied to any interest amount owed, and then to any principle owed.

10. WATER DELIVERIES:

10.1 Within five (5) days of the execution of this Agreement, Phelps Dodge shall notify SRP of the projected amount of Exchange Water to be diverted monthly during 2005. Thereafter, on or before September 1 of each year, Phelps Dodge shall notify SRP of the projected amount of Exchange Water to be diverted monthly in the following calendar year (up to 2,906 acre-feet per year).

10.2 On or before October 1 of each year, SRP shall notify Phelps Dodge of the projected amount of CAP Water to be received on a monthly basis, up to 2,906 acre-feet per year, pursuant to this Agreement.

10.3 On or before October 15 of each year, Phelps Dodge shall notify the Operating Agency of SRP's preferred CAP Water monthly delivery schedule. In the event the Operating Agency cannot deliver CAP Water to SRP according to SRP's preferred CAP Water monthly delivery schedule, Phelps Dodge shall notify SRP and the Parties shall work together with the Operating Agency to develop a schedule that is acceptable to SRP (SRP CAP Water monthly delivery schedule). In the event an increase or decrease in the amount of CAP Water is necessary to conduct the water exchange under this Agreement, SRP and Phelps Dodge shall seek to modify the SRP CAP Water monthly delivery schedule in accordance with the Operating Agency's scheduling procedures.

10.4 SRP shall have the right to order CAP Water directly from the Operating Agency pursuant to ordering procedures established by the Operating Agency and Article 10.3.

10.5 Phelps Dodge shall notify SRP as soon as practical and prior to any changes in the amount of Exchange Water expected to be diverted that may result in a decrease in the total annual diversions of Exchange Water by two hundred (200) acre-feet or more compared to the amount identified in Article 10.1.

11. ACCOUNTING FOR EXCHANGE OF WATER: SRP shall maintain monthly and annual records of the water exchange and by the end of the following month shall provide Phelps Dodge with a report showing a monthly and year-to-date accounting of the water exchange. The reports shall include at a minimum (1) the actual quantity of Exchange Water diverted by Phelps

Dodge during the previous month and the year-to-date amount for the calendar year, and (2) the actual amount of CAP Water received by SRP during the previous month and the year-to-date amount for the calendar year. Phelps Dodge shall review such reports and identify any discrepancies. At the request of either Party, Phelps Dodge and SRP shall work together to resolve any measurement and/or reporting irregularities.

12. SHORTAGES:

12.1 SRP assumes no liability whatsoever with respect to the quantity, or allocation of shortages, of water available from Pinal and Pinto Creeks for diversion pursuant to this Agreement. In no event shall SRP, its governing bodies, officers, directors, governors, agents, or employees be liable for any costs or damages, direct or indirect, of any nature whatsoever, arising out of or in any way connected with any suspension or reduction in the diversion of water pursuant to this Agreement.

12.2 SRP assumes no liability whatsoever with respect to the quantity, or allocation of shortages, of water available from the CAP water delivery system for diversion by SRP pursuant to this Agreement. In no event shall SRP, its governing bodies, officers, directors, governors, agents, or employees be liable for any costs or damages, direct or indirect, of any nature, arising out of or in any way connected with any suspension or reduction in the diversion of CAP Water from the CAP water delivery system pursuant to this Agreement.

13. WATER QUALITY: Neither SRP or Phelps Dodge make any representation or any warranty as to the quality of water it gives to another Party or any of them pursuant to this Agreement. Except as provided in Article 6.14 of this Agreement each Party assumes the responsibility for treating the water it receives pursuant to this Agreement to meet present or future water quality standards established by federal, state, or local authorities and applicable to the purpose for which the water is being used or for any other purpose.

14. WATER MEASUREMENT:

14.1 Exchange Water diverted by Phelps Dodge from Pinal and Pinto Creeks at the Miami Mine Facilities for use within the Globe-Miami Area shall be measured at the measurement locations listed in Exhibit 3.15 with a measurement device(s) that is accurate to within plus or minus five percent (5%) or less. Phelps Dodge shall evaluate each device annually and maintain the accuracy of such measurement device as close to zero error as practical, but in

no event shall error exceed plus or minus five percent (5%) of actual diversion of water from the Miami Mine Facilities for use within the Globe-Miami Area. SRP may at reasonable times, at its sole expense and after reasonable notice to Phelps Dodge, test or have tested the measurement device for accuracy. Upon mutual agreement, the Authorized Representatives may add, delete, or change the points of diversion for the Miami Mine Facilities for use within the Globe-Miami Area, and Exhibit 3.15 shall be revised accordingly. In the event that any of the inactive wells listed on Exhibit 3.15 become active, Phelps Dodge shall notify SRP, and the parties will agree to the use of a supplemental measurement device pursuant to Article 14.2 of the Agreement, if needed.

14.2 The Authorized Representatives may agree, in writing and at the expense of Phelps Dodge, to substitute or supplementary measuring devices, data-logging devices, reporting methods, or measurement locations. A Party shall not unreasonably withhold approval of a request by another Party to substitute or supplement measurement devices, data-logging devices, reporting methods, or measurement locations.

14.3 CAP Water delivered to SRP shall be measured at the CAP turnout to the CSIF using the United States' measurement device located on the common component of the CSIF.

15. ASSIGNMENT LIMITED – SUCCESSORS AND ASSIGNS OBLIGATED: The provisions of this Agreement shall apply to and bind the successors and assigns of the Parties hereto, but no assignment or transfer of this Agreement or any right or interest therein shall be valid until approved in writing by all the Parties to this Agreement.

16. ACTION PENDING RESOLUTION OF DISPUTES OR AUDIT EXCEPTIONS:

16.1 Pending the resolution of any dispute or an audit exception by the Authorized Representatives, the Parties shall proceed, to the extent legally permissible, in a manner consistent with this Agreement and shall make monetary and non-monetary payments required in accordance herewith. Monetary and non-monetary amounts paid by a Party pursuant to this Article 16 during the pendency of a dispute or an audit exception shall be subject to refund and adjustment upon a final resolution of any dispute or audit exception involving such amounts. Upon such final resolution, the owing Party shall directly refund any monetary amount due the other Party within thirty (30) days.

16.2 As to any quantity of water required to be paid or returned as a result of resolution

of a dispute or audit exception, the Authorized Representatives shall arrange for the owing Party to supply the quantity due as soon as practicable.

17. BOOKS, RECORDS, AND REPORTS: Subject to applicable laws and regulations, each Party shall have the right during office hours to examine and make copies of the other Party's books and records relating to matters covered by this Agreement.

18. NOTICES: Any notice, demand, or request authorized or required by this Agreement shall be deemed to have been given when mailed, postage prepaid, or delivered to the following:

18.1 Salt River Project, Associate General Manager, Water Group, P.O. Box 52025, Mail Station PAB232, Phoenix, Arizona 85072-2025;

18.2 Vice President and General Manager, Phelps Dodge Miami, Inc., P.O. Box 4444, Claypool, Arizona, 85532, with a copy to the Senior Land Agent, Phelps Dodge Miami, Inc., P.O. Box 4444, Claypool, Arizona, 85532, and a copy to General Counsel, Phelps Dodge Corporation, One North Central Avenue, Phoenix, Arizona 85004-4417.

The designation of the addressee, or the address, may be changed by notice given in the same manner as provided in this Article 18 for other notices.

19. PRECEDENCE: The Parties agree that the terms and conditions of this Agreement do not set precedence for future agreements among the Parties.

20. LIABILITY: Each Party shall assume liability for its own negligent or wrongful action or inaction.

21. ACCESS TO PREMISES AND FACILITIES: From time to time as determined by SRP, SRP may request access from Phelps Dodge for such purposes as testing or inspecting measurement devices, communications equipment, data devices and other apparatus and equipment pertinent to the provision of, or accounting for, services rendered under Articles 11 and 14 of this Agreement. Phelps Dodge shall take action on SRP's request for access within ten (10) business days of receipt of such request. Phelps Dodge shall not unreasonably withhold such permission.

22. WATER RIGHTS: This Agreement shall not be construed to recognize, confirm, ratify, validate, create, transfer, forfeit, abandon, or otherwise affect water rights.

23. POWER GENERATION: SRP, to the fullest extent allowed under federal and state law, reserves the right to use for its own consumption or its customers or for sale to others, electric

power generated by the flow of CAP Water delivered to SRP pursuant to this Agreement.

24. DEFAULTS:

24.1 In the event of a default by a Party in any of the terms and conditions of this Agreement, then, within thirty (30) days following the giving of written notice of such default by the non-defaulting Party, the defaulting Party shall remedy such default.

24.2 In the event that a Party disputes an asserted default, such Party shall nevertheless remedy such default, but may do so under protest. The protest shall be in writing.

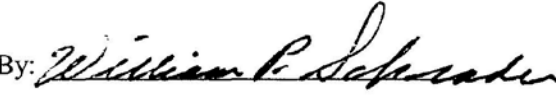
24.3 In the event that a default by a Party continues for a period of sixty (60) days following the notice provided for in Article 24.1 without such default being cured by the defaulting Party, this Agreement may be terminated upon written notification by the non-defaulting Party to the defaulting Party.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year first above written.

**SALT RIVER PROJECT
AGRICULTURAL IMPROVEMENT
AND POWER DISTRICT**

Attest and Countersign:

By: 
Corporate Secretary

By: 
President

Date: Feb. 4, 2005

Date: Feb. 4, 2005

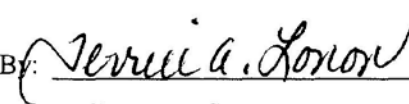
Approved as to form:

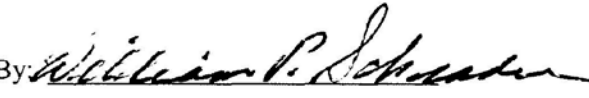


Date: Feb. 4, 2005

**SALT RIVER VALLEY WATER
USERS' ASSOCIATION**

Attest and Countersign:

By: 
Corporate Secretary

By: 
President

Date: Feb. 4, 2005

Date: Feb. 4, 2005

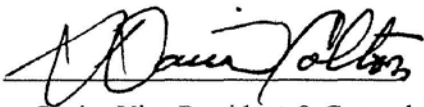
Approved as to form:

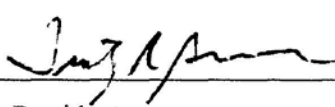


Date: Feb. 4, 2005

PHELPS DODGE CORPORATION

Attest and Countersign:

By: 
Senior Vice President & General
Counsel

By: 
President

Date: Feb. 4, 2005

Date: Feb. 4, 2005

Agreement Between Phelps Dodge Corporation and the
Salt River Project Agricultural Improvement and Power District and the
Salt River Valley Water Users' Association for Exchange of Water from
Pinal and Pinto Creeks for Central Arizona Project Water

Exhibit 3.13(A)

Globe-Miami Area

Pinal Creek Watershed* **

Township	Range
3N	14E
3N	15E
2N	14E
2N	15E
2N	15 ^{1/2} E
2N	16E
1N	13E
1N	14E
1N	15E
1N	15 ^{1/2} E
1N	16E
1S	14E
1S	14 ^{1/2} E
1S	15E
1S	16E

Pinto Creek Watershed*

Township	Range
2N	13E
1N	13E
1N	14E
1S	13E
1S	14E

Upper Gila Watershed*

Township	Range
1S	16E
1S	east 1/2 of 12E
2S	east 1/2 of 12E
north 1/2 of 2S	13E

*Excludes all San Carlos Apache Tribe lands

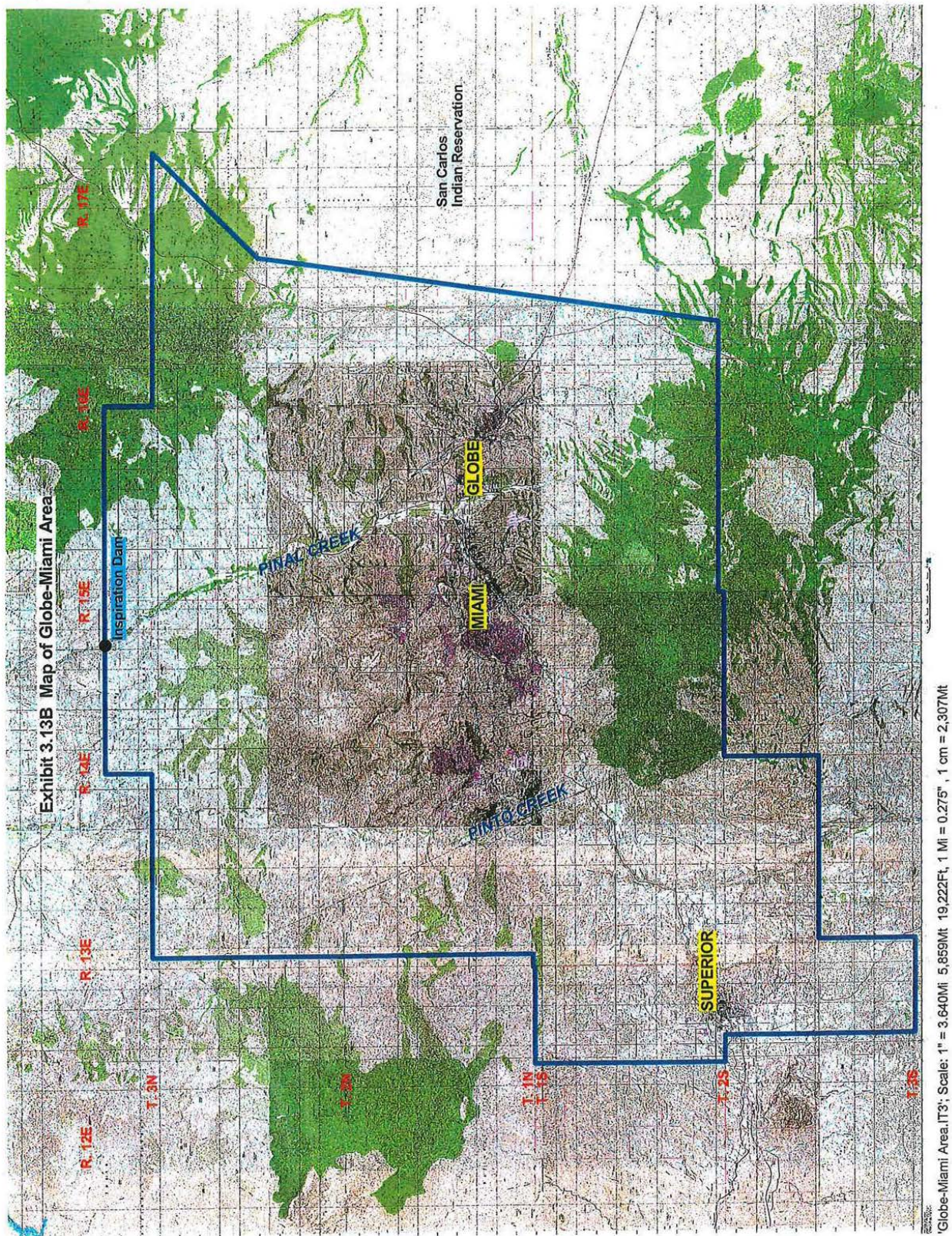
**Excludes all lands north of Inspiration Dam

Agreement Between Phelps Dodge Corporation and the
Salt River Project Agricultural Improvement and Power District and the
Salt River Valley Water Users' Association for Exchange of Water from
Pinal and Pinto Creeks for Central Arizona Project Water

Exhibit 3.13(B)

Map of Globe-Miami Area

See Attached



Agreement Between Phelps Dodge Corporation and the
Salt River Project Agricultural Improvement and Power District and the
Salt River Valley Water Users' Association for Exchange of Water from
Pinal and Pinto Creeks for Central Arizona Project Water

Exhibit 3.15
Miami Mine Facilities

Points of Diversion	Common Name	Status	Location
1. 55-609999	ICC-1	Inactive	SW of SE of SW of Section. 4, T1N, R15E
2. 55-610021	ICC-59A	Inactive	NW of NE of NW of Section 29, T2N, R15E
3. 55-610036	Fodera	Inactive	NE of SE of NW of Section 29, T2N, R15E
4. 55-610037	Pringle 1A	Active	NE of SW of NW of Section 36, T3N, R14E
5. 55-610038	Pringle 2	Active	SE of SW of NW of Section 36, T3N, R14E
6. 55-610039	Pringle 3	Active	NE of NW of SW of Section 36, T3N, R14E
7. 55-610040	Pringle 4	Active	NW of NE of SW of Section 36, T3N, R14E
8. 55-610041	Pringle 6	Active	NE of NE of SW of Section 36, T3N, R14E
9. 55-610042	Pringle 7	Active	NW of NE of SW of Section 36, T3N, R14E
10. 55-610043	Pringle 8	Active	NE of SW of NW of Section 36, T3N, R14E
11. 55-610052	Schornick Ranch	Inactive	SE of NE of SW of Section 7, T2N, R15E
12. 55-565287	LPC CW 1	Active	SW of SE of NW of Section 7, T2N, R15E
13. 55-565284	LPC CW 2	Active	SW of SE of NW of Section 7, T2N, R15E
14. 55-565285	LPC CW 3	Active	SE of SE of NW of Section 7, T2N, R15E
15. 55-565289	LPC CW 4	Active	SE of SE of NW of Section 7, T2N, R15E
16. 55-565286	LPC CW 5	Active	SE of SE of NW of Section 7, T2N, R15E

Exhibit 3.15 (continued)

Miami Mine Facilities

Points of Diversion	Common Name	Status	Location
17. 55-565288	LPC CW 6	Active	SE of SE of NW of Section 7, T2N, R15E
18. 55-565989	LPC CW 7	Active	SW of SE of NW of Section 7, T2N, R15E
19. 55-566693	LPC CW 8	Active	SE of SE of NW of Section 7, T2N, R15E
20. 55-581920	LPC CW 9	Active	SW of SE of NW of Section 7, T2N, R15E
21. 55-581921	LPC CW 10	Active	SW of SE of NW of Section 7, T2N, R15E
22. 55-581922	LPC CW 11	Active	SW of SW of NW of Section 7, T2N, R15E
23. 55-581923	LPC CW 12	Active	SE of SE of NW of Section 7, T2N, R15E
24. 55-581924	LPC CW 13	Active	SW of SE of NW of Section 7, T2N, R15E
25. 55-581925	LPC CW 14	Active	SE of SE of NW of Section 7, T2N, R15E
26. 55-581926	LPC CW 15	Active	SW of SE of NW of Section 7, T2N, R15E
27. 55-581927	LPC CW 16	Active	SE of SE of NW of Section 7, T2N, R15E
28. 55-581928	LPC CW 17	Active	SE of SE of NW of Section 7, T2N, R15E
29. 55-581929	LPC CW 18	Active	SE of SE of NW of Section 7, T2N, R15E
30. 55-524923	SRP-1 (Sunflower)	Inactive	NW of NE of NE of Section 19, T2N, R15E
31. 55-524925	SRP-2 (Sunflower)	Inactive	NW of NE of NE of Section 19, T2N, R15E
32. 55-526596	SRP-3 (Sunflower)	Inactive	NE of NE of NE of Section 19, T2N, R15E
33. 55-530317	SRP-4 (Sunflower)	Inactive	NE of NE of NE of Section 19, T2N, R15E

Exhibit 3.15 (continued)

Miami Mine Facilities

Points of Diversion	Common Name	Status	Location
34. 55-540408	SRP-5 (Sunflower)	Inactive	NE of NE of NE of Section 19, T2N, R15E
35. 55-624867	See Ranch Standby	Inactive	SW of SW of SW of Section 6, T2N, R15E
36. 55-624868	See Ranch	Inactive	NW of SW of SW of Section 6, T2N, R15E
37. 55-649751	Mitchell Ranch #1	Inactive	NW of SE of NW of Section 7, T2N, R15E
38. 55-649752	Mitchell Ranch #2	Inactive	NW of SE of NW of Section 7, T2N, R15E
39. 55-555536	LPC 6	Inactive	SW of SE of NW of Section 7, T2N, R15E
40. 55-555535	LPC 7	Inactive	SW of SE of NW of Section 7, T2N, R15E

Points of Measurement	Location
1. Pringle Pump Station	SE of SW of NW of Section 36, T3N, R14E
2. Lower Pinal Creek Water Treatment Plant	NE of NW of SE of Section 18, T2N, R15E

Points of Diversion Nos. 4 through 10 report to Pringle Pump Station. Points of Diversion Nos. 12 through 29 report to Lower Pinal Creek Water Treatment Plant. All other Points of Diversion (wells) listed above are inactive and not metered. In the event that any of the inactive wells become active, Phelps Dodge shall notify SRP, and the parties will agree to the use of a supplemental measurement device pursuant to Article 14.2 of the Agreement, if needed.

Approved:


SRP's Authorized Representative

Date: _____

Approved:


Phelps Dodge's Authorized Representative

Date: _____

APPENDIX C
WATER EXCHANGE PERMIT AND EXTENSION

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**ARIZONA DEPARTMENT OF WATER RESOURCES
WATER EXCHANGE PERMIT
[Specific Use]**

PERMIT NO. 68-208833

STATE OF ARIZONA)ss.
)
COUNTY OF MARICOPA)

Pursuant to Arizona Revised Statutes, Title 45, Chapter 4, Article 3, the Director hereby issues this specific use water exchange permit to the Permittees, subject to the following limitations and conditions:

Permit Limitations

Permittees: Salt River Valley Water Users' Association
 P.O.Box 52025
 Phoenix, Arizona 85072-2025

 Phelps Dodge Miami Incorporated
 P.O. Box 4444
 Claypool, Arizona 85532

Active Management Area: Phoenix

Effective Date of Permit: March 15, 2006

Expiration Date of Permit: March 14, 2056

PERMIT NO. 68-208833

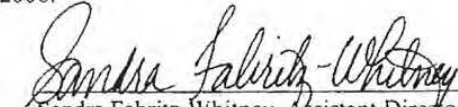
Maximum Annual Amount of Each Source of Water That May Be Exchanged, Geographic Areas of Exchange, and Location of Use:

1. The Salt River Valley Water User's Association (SRV) may give up to 2906 acre-feet per twelve month period of its Pinal Creek surface water to Phelps Dodge Miami Inc. to be used on lands within the boundaries of the Phelps Dodge Miami Mine Complex as described in Attachment 3 of SRV's Application for this permit. Pinal Creek surface water shall be delivered to the Phelps Dodge Miami Mine Complex from points of diversion described in Attachment 2 of SRV's application for this permit or at such other points of delivery as agreed by the parties involved in the exchange.
2. Phelps Dodge Miami Inc. may give up to 2906 acre-feet per twelve month period of its Central Arizona Project (CAP) water to SRV, to be used within SRV's irrigation district boundaries as described in Attachment 3 of SRV's Application for this permit. Exchange CAP water shall be delivered to SRV from the CAP/SRV Interconnection Facility in Section 13, Township 2 North, Range 6 East GSRB&M or at such other points of delivery as agreed by the parties involved in the exchange.
3. Each permittee that gives water pursuant to this permit shall receive the water to be exchanged for it within a twelve-month period, unless an extension is granted by the Director pursuant to A.R.S. § 45-1002(B)(3).

Special Conditions:

1. Any water exchange made pursuant to this permit shall meet the requirements for a water exchange permit contained in A.R.S. § 45-1041(A) and shall only be made pursuant to the water exchange contract signed by the permittees on February 4, 2005 and filed with the director on September 2, 2005.
2. Failure to exchange water pursuant to this permit for five or more consecutive years, except for reasons beyond the control of the permit holders, may result in revocation of this permit. A.R.S. § 45-1046(A)(3).

Witness my hand and seal of office this 15th day of March 2006.


Sandra Fabritz-Whitney, Assistant Director



JANICE K. BREWER
Governor

MICHAEL J. LACEY
Director

ARIZONA DEPARTMENT of WATER RESOURCES
3550 North Central Avenue, Second Floor
Phoenix, Arizona 85012-2105
602 771 8426
azwater.gov

December 2, 2014

Sandra Fabritz-Whitney
Director of Water Resources
Freeport-McMoRan

RE: Request for Time Extension, Water Exchange Permit No. 68-208833.0000

Dear Ms. Fabritz-Whitney:

We received your letter requesting a time extension on Water Exchange Permit No. 68-208833.0000 on October 7, 2014. As you are aware under A.R.S. § 45-1-46(A)(3) the referenced water exchange permit has a requirement to exercise the exchange at least once every five years. Failure to exchange water pursuant to this permit for five or more consecutive years may result in revocation of the permit, unless certain conditions are met (special condition #2 in the permit). In your letter, you explained that Freeport-McMoRan is currently pursuing final environmental clearance from the United States for exchange of non-Project water and the related water delivery systems to be used as conveyance of the non-Project water to be used in this exchange.

Special Condition #2 in the referenced water exchange permit allows for a possible extension whereby non-use of the exchange for timeframes greater than five years would not result in the revocation of the exchange permit. Specifically, if delays in exchanges under the permit were due to reasons beyond the control of the permit holders, an extension may be granted by the Director. The Department finds that active pursuit of the required federal environmental permits and subsequent issuance delay is beyond the control of the permit holders. Therefore, the Department grants an extension in the exercise of the exchange permit for five years from the date of this letter.

If you have any questions regarding this extension please do not hesitate to contact me at (602) 364-2650. Please notify the Department when the required Federal permits are obtained and the exchange is anticipated to begin.

Sincerely,

A handwritten signature in black ink, appearing to read "Doug Dunham", is written over a horizontal line.

Douglas W. Dunham
Special Assistant to the Director
Legislative Liaison, Ombudsman

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