

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

FINDING OF NO SIGNIFICANT IMPACT

CENTRAL ARIZONA PROJECT WATER OPTION AND LEASE
FROM
THE GILA RIVER INDIAN COMMUNITY
TO
APACHE JUNCTION'S WATER UTILITIES COMMUNITY FACILITIES DISTRICT

November 2011

Approved:  Date: 11/10/11
Randy N. Chandler
Area Manager
Phoenix Area Office
Bureau of Reclamation

FONSI No. PXAO-11-05

The Bureau of Reclamation has issued the attached Environmental Assessment (EA) to disclose potential environmental impacts resulting from the proposed 100-year lease of 1,000 acre-feet annually (afa) of Central Arizona Project (CAP) water from the Gila River Indian Community (Community) to the City of Apache Junction's Water Utilities Community Facilities District (WUCFD). Leasing of this CAP water requires approval by Reclamation and the Bureau of Indian Affairs, acting on behalf of the Secretary of the Interior (Secretary), and constitutes a Federal action. The 1,000 afa leased water would be added to the existing CAP water supplies available to WUCFD. WUCFD intends to utilize a proposed new infrastructure that will be constructed to treat existing supplies of CAP water. The leased CAP water would be conveyed to WUCFD's customers using the existing distribution system. Water would be received from the CAP canal at Mesa Right Turnout or the future WUCFD's Water Treatment Plant turnout and would then be directed for treatment at the City of Mesa's Brown Road Water Treatment Plant, the future South CAP Water Treatment Plant (SCWTP) or WUCFD's proposed Water Treatment Plant. The lease would also allow for WUCFD to convey the leased CAP water to Central Arizona Water Conservation District's (CAWCD) Superstition Mountain Recharge Project (SMRP), or other future ground saving facilities within the Phoenix Active Management Area (PAMA) for the purpose of annual storage and recovery to meet current demands or earning long term storage credits. The long term storage credits could then be used to offset future ground water pumping. The water could also be delivered to WUCFD's in-lieu partners: New Magma Irrigation District (NMID) and Roosevelt Water Conservation District. No modification to the existing facilities would be required to handle the additional 1,000 afa. However, within WUCFD's 5 year Capital Improvement Plan (2010-2014) upgrades are anticipated for two booster stations and their associated storage tanks and for portions of their water distribution system piping (Apache Junction Water Company 2010). The Capital Improvement Plans are not contingent upon the 1,000 afa lease.

Reclamation distributed a notice of availability for the EA to interested Federal, state, county and local agencies on October 14, 2011. Concurrent with this notice, the EA was posted to Reclamation's website (<http://www.usbr.gov/lc/phoenix/>) for a 15 day review. One comment was received from the White Mountain Apache Tribe (WMAT).

Comment: The WMAT has determined that "the proposed action will not have an effect on WMAT historic properties and/or traditional cultural properties." However, they recommend that "any/all ground disturbing activities should be monitored if there are reasons to believe that there are human remains and/or funerary objects are present and if such remains and/or objects are encountered all project activities should cease and the proper authorities and/or affiliated tribe(s) be notified to evaluate the situation." Furthermore, they have directed that there is "no need to send additional information unless project planning or implementation results in the discovery of sites and/or items having known or suspected Apache Cultural affiliation." It is important to note that the proposed project is located within an area of probable cultural or historical importance to the WMAT. As part of the effort to identify historical properties that may be affected by the project, WMAT also recommends an ethno-historic study and interviews with Apache elders.

Response: Reclamation acknowledges the recommendations submitted by WMAT and has forwarded them to WUCFD. As noted in the EA, the leasing of a portion of the Community's CAP water entitlement to WUCFD would not involve any additional ground-disturbing activities above that of the no action alternative; as a result, there would be no effect to cultural resources. However, state law and any local requirements would apply to future growth and development.

BACKGROUND

Title II of Public Law 108-451 (118 Stat. 3499), the Gila River Indian Community Water Rights Settlement Act of 2004 (Act), was enacted on December 10, 2004. The Act authorized settlement of the water right claims of the Community, and in section 203 authorized, ratified and confirmed the Gila River Community Water Rights Settlement Agreement (Agreement), dated December 21, 2005, and any amendments necessary to the Agreement to make it consistent with the Act. The Act, in Section 205(a)(2)(A), also directed the Secretary to amend the Community's CAP water delivery contract to authorize the Community, with the approval of the Secretary, to enter into contracts, options to lease, or exchanges of CAP water within Maricopa, Pinal, Pima, La Paz, Yavapai, Gila, Graham, Greenlee, Santa Cruz, or Coconino Counties for a term not to exceed 100 years.

As referenced in the Colorado River Documents 2008, the Community has been allocated 311,800 afa of CAP water. The Colorado River water available to the Community as part of the 2005 settlement agreement for the Community includes: 173,100 afa of CAP Indian priority water made available under a CAP water delivery contract, dated October 22, 1992, between the Secretary and the Community; 18,100 afa of CAP Indian priority water, which the Secretary acquired from Harquahala Valley Irrigation District as CAP non-Indian agricultural priority water and converted to CAP Indian priority water; 18,600 afa of CAP non-Indian agricultural priority water acquired under an agreement dated August 7, 1992, among the United States, the Community, and the Roosevelt Water Conservation District – it was converted from a percentage entitlement to a quantified entitlement in the 2005 amended and restated agreement; 102,000 afa of CAP non-Indian agricultural priority water reallocated to the Community under the Act.

In accordance with a firming agreement entered into under the Act, the State of Arizona is required, for a 100-year period, to improve the delivery priority of 15,000 af of the 102,000 afa of non-Indian agricultural priority water reallocated to the Community under that statute. In the event that deliveries of CAP non-Indian agricultural priority water are reduced in times of shortage, Arizona will supply water to the Community from other sources in order to "firm" this 15,000 afa water supply so that it is equivalent in priority to CAP municipal and industrial (M&I) priority water. The 100-year period began January 1, 2008.

The Act further provides that up to 17,000 afa of CAP M&I priority water under CAP subcontract No. 3-07-30-W0307 among the United States, CAWCD, and ASARCO Incorporated, dated November 17, 1993, may be reallocated to the Community upon execution of an exchange and lease agreement among the Community, the United States, and ASARCO Incorporated. Such an agreement had not been executed to date.

As of August 2011, the Community has entered into the following leases for CAP water: 7,000 afa to the City of Goodyear, 7,000 afa to the City of Peoria, 15,000 afa to the City of Phoenix, and 12,000 afa to the City of Scottsdale. These leases are each dated May 15, 2006, and the 100-year term of each lease commenced on January 13, 2008.

The Community entered into a settlement agreement with Phelps Dodge (now Freeport-McMoRan Copper & Gold, Inc.), which included a lease for 12,000 afa of CAP water and an option to lease up to an additional 10,000 afa as part of the Community's water settlement agreement.

The Community also entered into an exchange agreement for reclaimed water with the neighboring municipalities of Chandler and Mesa, in which the Community exchanges a portion of its CAP water for treated effluent water. In addition, the Community leased a total of 32,618 afa of its 2008 allocation to the Salt River Project Agricultural Improvement and Power District and the Salt River Valley Water Users' Association under a 1-year lease.

As of August 2011, construction of the infrastructure to deliver CAP water to the Community for agricultural use is ongoing, but the Community is taking partial delivery of its CAP water supplies. All undelivered CAP entitlements of the Community become excess water and is distributed in accordance with CAP's Access to Excess Program. The Community has determined that 1,000 afa is excess to their needs and would like to lease it to WUCFD to capitalize on their CAP entitlement.

The City of Apache Junction has 2,919 afa of Colorado River water available to them through WUCFD, who is one of two water service providers of the City of Apache Junction. On March 24, 1983, the Secretary allocated WUCFD's predecessor agency, Palm Springs Water Company, 2,919 afa of CAP water. In 1997, WUCFD acquired the assets of Palm Springs Water Company through bankruptcy proceedings. WUCFD's CAP water service subcontract was executed on May 25, 2007 (07-XX-30-W0494). In January 1998, WUCFD began using its CAP allocation.

The WUCFD has been issued a Designation of Assured Water Supply (DAWS) through 2025, based on current, committed and projected demands and available supplies consistent with Arizona Department of Water Resources' (ADWR) Assured Water Supply (AWS) rules (ADWR 2010). WUCFD is able to meet the water demands for current and anticipated population growth for the next 14 years based upon the renewable and reclaimed water supplies identified in their DAWS. To further offset their future potable water demand, WUCFD is proposing to lease 1,000 afa of CAP entitlement from the Community. The addition of this renewable water source would reduce WUCFD's dependence on groundwater within its service area, including the additional cost of the use of Central Arizona Groundwater Replenishment District's replenishment services and would lessen their reliance on excess CAP water, which may not always be available. If WUCFD's water service area expands, as proposed in the City of Apache Junction's General Plan, the additional 1,000 afa could be used to meet WUCFD's future water demand. However, it is not certain how much would be used within the future water service area nor is it known how the water will be applied.

The EA for this proposal describes the existing conditions in WUCFD's water service area and the environmental impacts that are anticipated to result from Reclamation's approval of the option and lease agreement.

FINDING OF NO SIGNIFICANT IMPACT

Based upon review of the attached EA, I have determined that the lease of 1,000 afa of CAP water from the Community to WUCFD will not significantly impact the human environment and that preparation of an environmental impact statement is not warranted. This decision is based on the following considerations:

1. No land disturbing activities will occur as a result of the lease. Therefore, there will be no direct adverse impacts resulting from the proposed action. Indirect and cumulative impacts from the proposed action, mostly related to urbanization of non-developed land, will be identical to the no action alternative.
2. The proposed action will not result in any effects to public health or safety. The recharge of the leased CAP water is not anticipated to result in substantial changes to the current local groundwater quality. The cumulative effect of recharge with CAP water from all sources is a gradual blending of water qualities of ambient groundwater. WUCFD's potable water consistently meets Federal and State drinking water standards.
3. The WUCFD's current and proposed water service area is mostly undeveloped; no direct impacts will occur from the proposed project to unique characteristics of the geographic area such as park lands, prime and unique farmlands, wetlands, wild and scenic rivers, or ecologically critical areas. Land development would be subject to compliance with local, state, and Federal laws and ordinances protecting environmental resources.
4. No effect on the quality of the human environment is anticipated. No disproportionately high or adverse human health or environmental effects on minority and/or low-income populations would result from the proposed action.
5. The proposed action will not establish a precedent for future actions and will not represent a decision in principle about a future consideration. It will merely continue delivery and recharge activities, albeit with a larger quantity of CAP water. WUCFD has DAWS from ADWR. ADWR's Decision and Order, dated September 29, 2010, states that 3,995.16 afa are physically, legally and continuously available to WUCFD to support its AWS designation. WUCFD is able to meet the water demands for current and anticipated population growth for the next 14 years based upon the renewable and reclaimed water supplies identified in their DAWS. In addition, WUCFD plans on renewing their Water Storage Permits at NMID and RWCD groundwater savings facilities as well as apply for a Water Storage Permit at the newly constructed SMRP recharge facility. ADWR has also issued a Recovery Well Permit to allow the recovery of recharged water from WUCFD's designated wells. If and when the City of Apache Junction's future planning area is annexed,

the additional land would be served by WUCFD. If WUCFD's water supplies are insufficient to meet the future water demand and AWS requirements, developers would be expected to acquire renewable supplies needed to serve the proposed developments.

6. Cumulatively significant impacts are not anticipated to occur as a result of the proposed action. The proposed action and no action alternative are essentially identical except that under the no action alternative WUCFD would continue to purchase excess CAP water from CAWCD's Access to Excess Program as well as from CAWCD's future Project Acquisition, Development, and Delivery (ADD) Water Program. Other possible alternatives would be to purchase water from the Arizona State Land Department's 2,000 acre-feet (af) of CAP M&I water designated for Apache Junction or a portion of the 2,906 af of Reserve CAP M&I water reserved for the entire state of Arizona. WUCFD would also continue to pursue other CAP lease agreements with other Native American communities. Under the proposed action, WUCFD would lessen their reliance on excess CAP water, the future ADD Water Program and other acquisition resources.
7. The proposed project does not result in additional ground disturbance beyond what would occur under the no action alternative. Therefore, the proposed action precludes possible effects to cultural resources, including historic properties listed in or eligible for listing in the National Register of Historic Places.
8. The proposed action does not include any additional construction of infrastructure or ground disturbing activities, nor would it result in changes in land use patterns beyond what has been identified in the no action alternative. There were three Federally listed and candidate species identified within the project area. However, no Federally listed and candidate species would be affected by the proposed action.

The leasing of a portion of the Community's CAP water entitlement to WUCFD would have diminutive effects on biological resources within or adjacent to WUCFD's water service area. On-going development within WUCFD's existing and future service area would be subject to compliance with local, state, and Federal laws and ordinances to protect biological resources.

9. The proposed action does not threaten to violate Federal, State, or local law or requirements imposed for the protection of the environment.
10. The Community's CAP water entitlement is an Indian Trust Asset. The proposed action would have a positive benefit to the Community through income earned as a result of leasing the water to WUCFD.

Documents related to this action are identified below:

Apache Junction Water Company. 2010. *Water System Master Plan Update; 5 Year CIP (2010-2014) Water System Capital Improvements*. Produced by Narasimhan Consulting Services, Inc. (NCS)

Arizona Department of Water Resources (ADWR). 2010a. *Apache Junction Water Utilities Community Facilities District Assured Water Supply Designation: Decision & Order 86-002025.001 and AWS 2010-014, September 29, 2010*.

U.S. Bureau of Reclamation. 2011. *Environmental Assessment - CAP Water Option and Lease from the Gila River Indian Community to Apache Junction's Water Utilities Community Facilities District*. U.S. Department of the Interior, Bureau of Reclamation, Lower Colorado Region, Phoenix Area Office.

Verberg, Katherine Ott. 2010. *The Colorado River Documents 2008*. U.S. Department of the Interior, Bureau of Reclamation, Lower Colorado Region.