

# RECLAMATION

*Managing Water in the West*

## **Draft Finding of No Significant Impact and Environmental Assessment**

### **Exchange of Central Arizona Project Water between Tohono O'odham Nation and New Magma Irrigation and Drainage District for Storage at a Ground Water Savings Facility and In-Lieu of Ground Water Pumping use for Irrigation**



**U.S. Department of the Interior  
Bureau of Reclamation  
Environmental Resource Management Division  
Phoenix Area Office**

January 2015

## **Mission Statements**

The U.S. Department of the Interior protects America's natural resources and heritage, honors our cultures and tribal communities, and supplies the energy to power our future.

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.

DRAFT

FINDING OF NO SIGNIFICANT IMPACT

Exchange of Central Arizona Project Water between Tohono O'odham Nation and New Magma Irrigation and Drainage District for Storage at a Ground Water Savings Facility and In-Lieu of Ground Water Pumping use for Irrigation

Approved: \_\_\_\_\_  
Leslie A. Meyers, Area Manager  
Phoenix Area Office  
Bureau of Reclamation

Date: \_\_\_\_\_

FONSI No.: PXAO-15-01



## **DRAFT - Finding of No Significant Impact (FONSI)**

### **National Environmental Policy Act – Introduction**

In accordance with the National Environmental Policy Act (NEPA) of 1969 (Public Law [P.L.] 91-190), Council on Environmental Quality regulations implementing NEPA (40 CFR 1500-1508), and Department of the Interior NEPA regulations (43 CFR 46), the Bureau of Reclamation as the lead Federal agency, has issued the attached Environmental Assessment (Reclamation 2014) to disclose the potential environmental impacts that will result from the approval of an Exchange Agreement between the Tohono O’odham Nation, a federally recognized Indian tribe (Nation) and the New Magma Irrigation and Drainage District (NMIDD or New Magma) for delivery of the Nation’s CAP Water for Storage at a Ground Water Savings Facility. The storage agreement was executed January 1, 2014 for a period of two years and the amount of water delivered ranges from zero to 25,000 acre-feet of the Nation’s CAP allocation for delivery to a Groundwater Savings Facility.

The purpose of the Agreement is to provide NMIDD with a renewable surface water resource to use in lieu of pumping ground water and to provide the Nation with Long Term Storage Credits pursuant to Arizona Revised Statute § 45-852.01. According to the provisions of the Arizona Water Settlements Act (P.L. 108-451) (AWSA) the United States considers the Agreement to be an exchange and requires the approval of the Secretary of the Interior in accordance with Section 309(c)(4)(C) of the Act.

### **Public Involvement and Comment**

The Bureau of Reclamation invites public input on its decision making process, and this EA and FONSI are available at: [www.usbr.gov/lc/phoenix](http://www.usbr.gov/lc/phoenix). Digital and paper copies were provided to the Arizona Department of Water Resources, Arizona Game and Fish Department, Central Arizona Water Conservation District, Bureau of Indian Affairs, and the United States Fish and Wildlife Service. Copies were also provided to the San Xavier District of the Tohono O’odham Nation, the Shuck Toak District of the Tohono O’odham nation, and the San Xavier Allottees Association. The Environmental Protection Agency is also provided a copy for review and comment as required by the Clean Air Act Section 309.

### **FONSI**

Based upon the consideration of the effects presented in the attached EA, the Area Manager of the Bureau of Reclamation’s Phoenix Area Office has determined that the Proposed Action does not qualify as a “major Federal action” under NEPA and would not significantly impact the quality of the human environment. Therefore, an environmental impact statement is not warranted. The decision was made based on information presented in the attached Environmental Assessment (EA).

Following are the reasons why the impacts of the proposed action are not significant:

1. Land use, air quality and soils will not be affected.
2. There will be no impact to historic properties, traditional cultural properties or sacred sites.
3. The proposed action will not adversely affect Indian trust assets
4. There will be no impact to unique ecological areas or other rare or unique characteristics of the landscape.
5. Biological resources, including sensitive species, will not be affected.
6. The proposed action is not related to other actions which are individually insignificant, but when considered collectively will result in cumulatively significant effects.
7. Low income or minority populations as defined in Executive Order 12898 will not be affected.
8. The proposed action will not have highly controversial environmental impacts or involve unresolved conflicts concerning alternative uses of available resources. In addition, the action will not have highly uncertain environmental impacts or involve unique or unknown environmental risks.
9. The proposed action would not establish a precedent for future actions or represent a decision in principle about future actions with potentially significant effects.
10. The proposed action will not result in cumulatively significant effects.

Documents cited above:

Bureau of Reclamation. 2015. Exchange of Central Arizona Project between Tohono O'odham Nation and New Magma Irrigation and Drainage District for Storage at a Ground Water Savings Facility and In-Lieu of Ground Water Pumping use for Irrigation. Phoenix Area Office, Phoenix, AZ

## **Environmental Assessment**

**Exchange of Central Arizona Project  
between Tohono O'odham Nation and  
New Magma Irrigation and Drainage  
District for Storage at a Ground Water  
Savings Facility and In-Lieu of Ground  
Water Pumping use for Irrigation**



## Table of Contents

1.0 Introduction and Background .....	1
1.1 Description of the Proposed Action and Alternatives .....	1
1.2 No Action Alternative .....	2
1.3 Purpose and Need for the Proposed Action .....	2
1.4 Description of the Project Area .....	2
2.0 Environmental Consequences.....	5
2.1 Environmental Resources Examined Closely.....	7
2.1.1 Indian Trust Assets .....	7
2.1.2 Water Resources .....	7
3.0 Environmental Laws and Directives Considered .....	9
National Environmental Policy Act of 1969, as amended (NEPA) (P.L. 91-190) .....	9
Fish and Wildlife Coordination Act (FWCA) (P.L. 85-624) .....	9
Endangered Species Act of 1973 (ESA) (P.L. 93-205) .....	9
The Migratory Bird Treaty Act (MBTA) of 1918, as amended .....	9
Wild and Scenic Rivers Act of 1968 (P.L. 90-542) .....	9
Wilderness Act of 1964 (P.L. 88-577, as amended) .....	10
Clean Water Act (CWA) (P.L. 92-500, as amended) (CWA).....	10
National Historic Preservation Act of 1966, as amended (NHPA) (P.L. 89-665).....	10
Farmland Protection Policy Act (P.L. 97-98).....	10
Executive Order 11988 (Floodplain Management) .....	10
Executive Order 12898 (Environmental Justice) (EO 12898) .....	10
Executive Order 11990 (Wetlands) (EO 11990) .....	11
Department of Interior, Secretarial Order, Indian Trust Assets (ITAs) .....	11
4.0 Preparer .....	13
4.1 Agencies and Persons Consulted .....	13
4.2. Persons Consulted: .....	13
4.3 Agencies Consulted:.....	13
5.0 References.....	15

## List of Tables

Table 1. Effects Determination for Specified Environmental Issues .....	6
---	---

## List of Figures

Figure 1 Map of the Entire NMIDD Service Area.....	3
--	---



## 1.0 Introduction and Background

### 1.1 Description of the Proposed Action and Alternatives

In accordance with the National Environmental Policy Act of 1969, (P.L. 91-190) the Bureau of Reclamation has prepared an Environmental Assessment to analyze the potential environmental impacts as a result of an 'in lieu' water exchange between the Tohono O'odham Nation (Nation), a federally recognized Indian Tribe, and New Magma Irrigation and Drainage District (NMIDD) for the delivery, storage and possible future recovery of water at a Groundwater Savings facility owned and operated by New Magma.

The Nation could choose delivery amounts from zero to 25,000 Acre Feet Annually (AFA) as needed. NMIDD would use the Nation's Central Arizona Project (CAP) allocation in lieu of pumping groundwater for their irrigation customers. The time period covered under this document is two years, or until the agreement is terminated.

New Magma owns a Facility Permit from the Arizona Department of Water Resources (ADWR) that authorized storage of CAP water at its Groundwater Savings Facility (GSF). The Nation has an existing CAP allocation, and would obtain a permit for storage of its water at the New Magma GSF. The point of delivery would use existing New Magma turnouts and no new infrastructure would be required in order for the exchange to occur.

New Magma desires to use the Nation's CAP water in lieu of pumping groundwater and the Nation desires to deliver its CAP water to the GSF to obtain Long Term Storage Credits. In accordance with the provisions of the Arizona Water Settlements Act (AWSA); Public Law 108-451 the United States considers the agreement to be an exchange of the Nation's CAP water and requires the approval of the Secretary of the Interior (Secretary) to comply with section 309(c)(4)(C) of the Act. This EA/FONSI complies with the necessary environmental compliance for the Secretary's approval.

As part of the exchange an annual scheduling agreement would be required between the two parties. However, for each year during the term of the Exchange Agreement, New Magma would not be obligated to accept and the Nation would not be obligated to deliver any of the Nation's CAP water until the agreement was mutually accepted.

The exchange annual scheduling agreement would contain amounts on a monthly basis, and would be submitted to the Central Arizona Water Control District (CAWCD). It could be amended with written notice. The exchange would be subject to the CAWCD policy. Specifically under current policy New Magma must commit to use all of its CAP Agricultural Settlement Pool Excess water before it can use the in lieu water. The policy is currently under preliminary discussion for change; however the policy as described in the Exchange Agreement still applies until such decision has been made. The impact of this policy could reduce the amount of the Nation's water that NMIDD would be able to accept. Within the exchange agreement, there are several options that would be used to remedy this concern. All of these

options require the Secretary's approval, and therefore would also require the appropriate and adequate NEPA documentation.

## **1.2 No Action Alternative**

Under the No Action alternative, there would be no impact to environmental resources, since no action would be implemented but the long term viability of ground water resources could be compromised. Anticipated future urban growth will likely displace a significant portion of the remaining agricultural land, shifting the emphasis from irrigated agriculture to irrigated urban landscapes. As future supplies of excess Central Arizona Project water are becoming smaller and smaller, an increase in ground water pumping would occur to irrigate remaining fields and landscapes. The inability to increase the longevity of ground water resources would not be achieved.

## **1.3 Purpose and Need for the Proposed Action**

The purpose of the Proposed Action is to add water to an already permitted GSF. NMIDD seeks to use the Nation's CAP water in lieu of pumping ground water and the Nation desires to obtain Long-Term Storage Credits. The project is needed to reduce ground water pumping for the irrigation of crops since ground water is a dwindling resource.

## **1.4 Description of the Project Area**

The project is located in Maricopa and Pinal Counties. NMIDD's existing water service area encompasses 27,410 acres in the Southeastern part of the Phoenix Active Management Area between Queen Creek and the Gila River. CAP water is delivered from a turnout on the Salt-Gila reach of the CAP Aqueduct and conveyed to agricultural fields through existing irrigation infrastructure. Figure 1 is a map of the NMIDD service area and turnouts. No new infrastructure or turnouts would be required as a result of the proposed exchange. The green oval shaped area indicates the proposed project area.

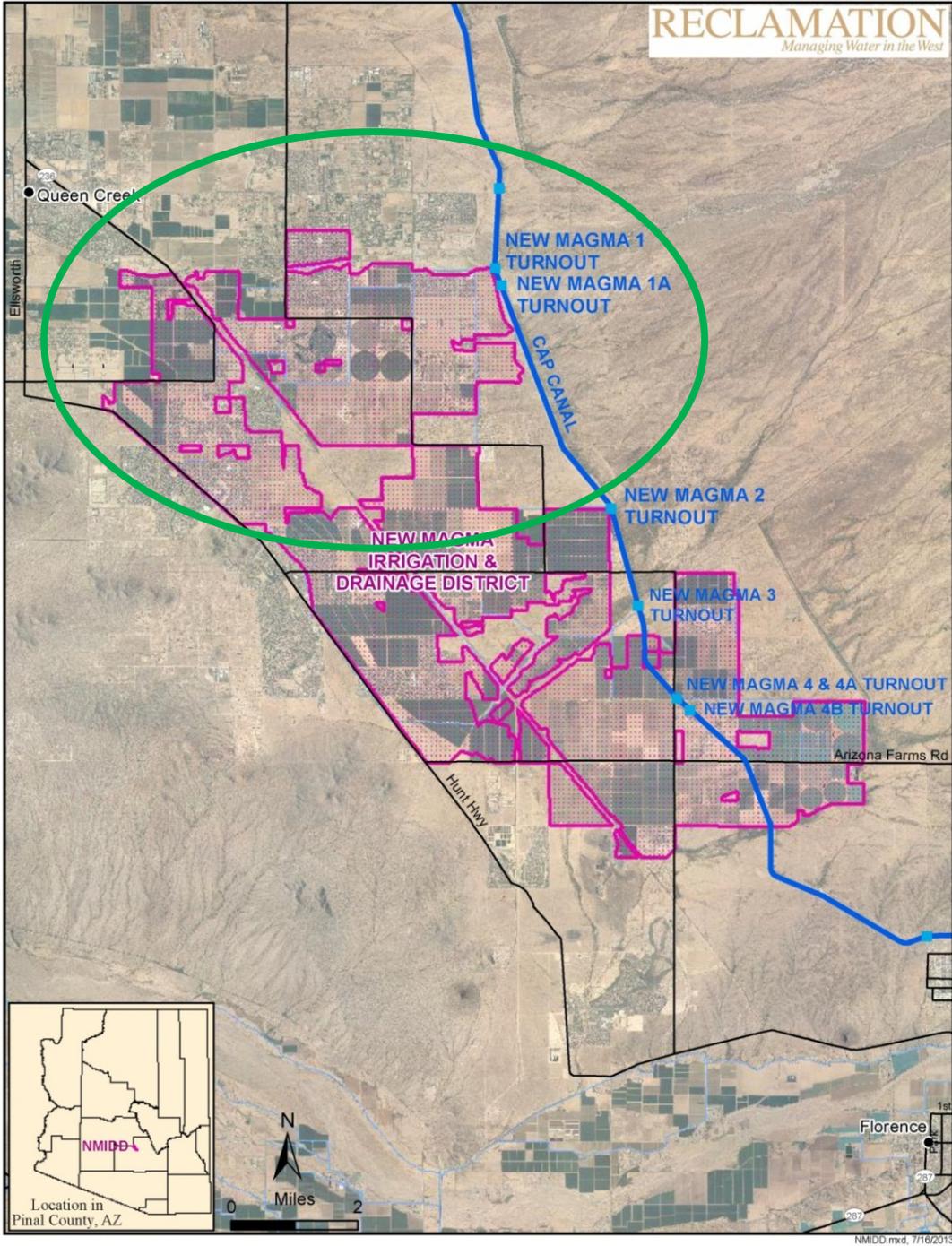


Figure 1 Map of the Entire NMIDD Service Area

This page intentionally left blank.

## **2.0 Environmental Consequences**

### **No Action**

Under the no action alternative, there would be no impact to environmental resources from the proposed action since the exchange agreement would not be implemented. However, it is anticipated that future urban growth will likely displace a portion of the remaining agricultural lands in NMIDD's service area, shifting the emphasis from agricultural to urban landscape. As the reliability of excess CAP water lessens over time, NMIDD may become more reliant on leased CAP water and other surface water supplies to meet their water supply demand.

### **Proposed Action**

The proposed action would not result in any new construction or change in land use. CAP water would be delivered through existing infrastructure to CAP-eligible agricultural lands within NMIDD's service area. The exchange would not cause additional growth and development beyond what was described in the no action alternative.

There are no wildlife refuges, national parks, aquatic resources, wetlands, sole source aquifers, floodplains, wilderness areas, unique ecological areas, or other unique or rare characteristics of the land that occur in the project area; consequently, there would be no effect to these resources. In addition, there would be no effect to biological resources, land use, air quality or soils. Other environmental issues for which Reclamation has made a no effect determination are listed in Table 1 on the next page.

**Table 1. Effects Determination for Specified Environmental Issues**

<b>Environmental Issue</b>	<b>No</b>	<b>Yes</b>	<b>Uncertain</b>
This action would have an effect on public health or safety.	X		
This action or group of actions would have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources.	X		
This action would have highly uncertain environmental effects or involve unique or unknown environmental risks.	X		
This action would establish a precedent for future actions or represent a decision in principle about future actions with potentially substantial effects.	X		
This action would violate Federal, State, local, or tribal law or requirements imposed for protection of the environment.	X		
This action would have socioeconomic effects, or a disproportionately high and adverse effect on low income or minority populations.	X		
This action would limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or substantially adversely affect the physical integrity of such sacred sites.	X		
This action would contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or result in actions that may promote the introduction, growth, or expansion of the range of such species.	X		

## **2.1 Environmental Resources Examined Closely**

The potential environmental effects associated with implementation of the proposed action necessitated examination of the following issues in greater detail.

### **2.1.1 Indian Trust Assets**

Indian trust assets are legal interests in property held in trust by the United States for Native American Tribes or individuals. The Community's CAP water is a trust asset. The proposed agreement would provide the Community a means for accruing LTSC that can be recovered or reassigned in accordance with Arizona State law. There would be no adverse effects to trust assets of the Community or any other tribe.

### **2.1.2 Water Resources**

According to NMIDD, there is sufficient permitted capacity in the GSF to store supplies of CAP water provided by the Community under the exchange agreement for the next two and a half years. Once the permitted storage capacity is reached, the Community would need to secure other water storage opportunities to earn LTSC.

Implementation of the exchange agreement would reduce groundwater withdrawals in the GSF by an amount equivalent to the quantity of CAP water that the Community would store. According to current state law, upon recovery of the LTSC, 5 percent of the stored water would be retained in the aquifer for the purpose of recharge. The long-term effect would be to conserve groundwater supplies that otherwise would be reduced in the absence of the proposed action.

This page intentionally left blank.

### **3.0 Environmental Laws and Directives Considered**

#### **National Environmental Policy Act of 1969, as amended (NEPA) (P.L. 91-190)**

This law requires Federal agencies to evaluate the potential consequences of major Federal actions. An action becomes “Federalized” when it is implemented by a Federal agency, wholly or partially funded with Federal monies, or requires authorization from a Federal agency. The intent of NEPA is to promote consideration of environmental impacts in the planning and decision-making processes prior to project implementation. NEPA also encourages full public disclosure of the proposed action, any action alternatives, potential environmental effects, and mitigation.

This EA is being made available for public review and comment. Based upon the assessment, Reclamation has made a preliminary determination that a Finding of No Significant Impact is appropriate. However, any public comments received during the public review comment period will be carefully considered before a final decision is made that an environmental impact statement is not warranted. This EA was prepared in accordance with NEPA requirements.

#### **Fish and Wildlife Coordination Act (FWCA) (P.L. 85-624)**

The FWCA provides a procedural framework for the consideration of fish and wildlife conservation measures in federal water resource development projects. Coordination with the Fish and Wildlife Service (FWS) is required on all federal water development projects. The effects of the CAP were originally addressed in an amended FWCA report prepared by the FWS in 1989. This proposed project results in no new water diversions or impoundments, nor does it result in development of or diversion of water into a water body. No further coordination pursuant to the FWCA is anticipated.

#### **Endangered Species Act of 1973 (ESA) (P.L. 93-205)**

The ESA provides protection for plants and animals that are currently in danger of extinction (endangered) and those that may become extinct in the foreseeable future (threatened). Section 7 of this law requires federal agencies to ensure that all federally associated activities do not have adverse impacts on the continued existence of threatened or endangered species or designated areas (critical habitat) that are important in conserving those species. No changes to vegetation or current ongoing agricultural practices would result from this proposed action. Reclamation has concluded the Proposed Action would not affect any federally listed species and that a separate Biological Assessment does not need to be prepared.

#### **The Migratory Bird Treaty Act (MBTA) of 1918, as amended**

The MBTA 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 MBTA prohibits the take, possession, import, export, transport, selling, or purchase of any migratory bird, their eggs, parts, or nests. No migratory bird species are anticipated to be affected since no land disturbance will occur as part of this action.

#### **Wild and Scenic Rivers Act of 1968 (P.L. 90-542)**

This law designated the initial components of the National Wild and Scenic River System. It established procedures for including other rivers or reaches of rivers that possess outstanding

scenic, recreational, geologic, fish-and-wildlife, historic, cultural, or other similar resources, and preserving these rivers in a free-flowing condition. The Act applies to waters designated, or eligible for designation, as wild and scenic. There are no rivers designated or proposed for designation as wild or scenic within or near NMIDD's service areas.

**Wilderness Act of 1964 (P.L. 88-577, as amended)**

This act established the National Wilderness Preservation System to be comprised of federally owned areas designated by Congress as "wilderness areas," to be administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and provide for the protection of these areas and preserve the wilderness character. The project area contains no areas that are designated wilderness areas, or are eligible for designation.

**Clean Water Act (CWA) (P.L. 92-500, as amended) (CWA)**

This law established the basic structure for regulating discharges of pollutants into the nation's rivers, lakes, estuaries, and coastal waters. Under Section 404 of the CWA, the U.S. Army Corps of Engineers (Corps) regulates the discharge of dredged and/or fill material into waters of the U.S. including wetlands. In addition, a Section 401 water quality certification and 402 Arizona Pollutant Discharge Elimination System permit are required for activities that discharge pollutants to waters of the U.S. However, no additional construction of infrastructure or delivery system features are proposed; thus, the project does not require authorization under a CWA 401 water quality certification and 402 or 404 permit.

**National Historic Preservation Act of 1966, as amended (NHPA) (P.L. 89-665)**

All areas to be served CAP water as a result of this proposed action already have been subjugated and have been subject to irrigation. The proposed action would not result in changes to existing land use; therefore no effect to cultural resources is expected to occur.

**Farmland Protection Policy Act (P.L. 97-98)**

This law requires identification of proposed actions that would adversely affect any lands classified as prime and unique farmlands and minimizes the unnecessary and irreversible conversion of farmland to nonagricultural uses. The U.S. Department of Agriculture's Natural Resources and Conservation Service administers this act. There will be no changes to current agricultural activities as a result of this proposed action; therefore, no effect to any lands classified as prime and unique farmlands are expected to occur.

**Executive Order 11988 (Floodplain Management)**

This Presidential directive encourages Federal agencies to avoid, where practicable alternatives exist, the short- and long-term adverse impacts associated with floodplain development. Federal agencies are required to reduce the risk of flood loss and minimize the impacts of floods on human safety, health and welfare; and restore and preserve the natural and beneficial values served by floodplains in carrying out agency responsibility. The proposed action would not affect floodplains or increase the risk of floods.

**Executive Order 12898 (Environmental Justice) (EO 12898)**

This executive order requires Federal agencies to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of Federal actions on minority and/or low-income populations. Low-income populations include communities or

individuals living in proximity to one another and meeting the U.S. Census Bureau statistical thresholds for poverty. Minority populations are identified where the percentage of minorities in the affected area exceeds 50 percent, or where the minority population percentage of the affected area is meaningfully greater than the minority population's percentage of a much broader area. No adverse effects to low income or minority populations are expected as a result of the implementation of the proposed action.

**Executive Order 11990 (Wetlands) (EO 11990)**

EO 11990 requires federal agencies, in carrying out their land management responsibilities, to take action that would minimize the destruction, degradation of wetlands; and take action to preserve and enhance the natural and beneficial values of wetlands. There are no wetlands in the project area that would be affected.

**Department of Interior, Secretarial Order, Indian Trust Assets (ITAs)**

ITAs are legal interests in assets held in trust by the U.S. government for Native American tribes or individuals. These assets can be real property or intangible rights and include water rights, hunting rights, money, lands, minerals, and other natural resources. The trust responsibility requires that all Federal agencies take actions reasonably necessary to protect ITAs. The Community's CAP water entitlement is a trust asset. The proposed action would benefit the Community through the accrual of LTSC that would result from this exchange agreement. There are no known ITAs within NMIDD's service area. This resource was analyzed in Section 2.1.1 of this document.

This page intentionally left blank.

## **4.0 Preparer**

Kimberly Musser, Environmental Protection Specialist, Department of the Interior, Bureau of Reclamation; Lower Colorado Region, Phoenix Area Office.

### **4.1 Agencies and Persons Consulted**

#### **4.2. Persons Consulted:**

John McGlothlen, Environmental Protection Specialist, Bureau of Reclamation  
Alexander Smith, Supervisory Environmental Protection Specialist, Bureau of Reclamation  
James Beadnell, Contract and Repayment Specialist, Bureau of Reclamation  
Lawrence Marquez, Native American Affairs Office Manager, Bureau of Reclamation  
Katherine Verburg, Solicitor, Department of the Interior  
Nichole Olkser, Biologist, Bureau of Reclamation  
Sandra Eto, Environmental Protection Specialist, Bureau of Reclamation

#### **4.3 Agencies Consulted:**

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/](http://www.usbr.gov/lc.phoenix/). Paper copies of the Notice of Availability memorandum and EA were distributed to the following entities:

- Arizona Department of Water Resources
- Bureau of Indian Affairs
- Central Arizona Water Conservation District
- New Magma Irrigation and Drainage District
- Tohono O'odham Nation
- San Xavier District, Tohono O'odham Nation
- Schuk Toak District, Tohono O'odham Nation
- San Xavier Allottees Association
- Arizona Department of Environmental Quality
- U.S. Fish and Wildlife Service

This page intentionally left blank.

## 5.0 References

### Reference List

- 40 CFR Part 1500-1508 Regulations for the Implementation of the National Environmental Policy Act, 2005.
- 43 CFR Part 46 Department of the Interior Office of the Secretary. Implementation of the national Environmental Policy Act (NEPA) of 1969.
- Arizona Water Settlements Act, P.L. 108-451, December 2004
- Bureau of Reclamation Departmental Manual Part 516. Protection and Enhancement of Environmental Quality.
- Bureau of Reclamation Draft Exchange Agreement, February, 2014.
- Bureau of Reclamation, Letter to Tohono O’odham Nation ; Subject: Payment of Fixed Operation, Maintenance and Repair (OM&R) for Delivery to Underground Water Savings Facility (USF); April 26, 2012.
- Bureau of Reclamation, Letter to Gila River Indian Community; Subject: Payment of Fixed Operation, Maintenance and Repair (OM&R) for Delivery to Groundwater Savings Facilities; April 25, 2012.
- National Environmental Policy Act of 1969, as amended, Pub. L. 91-190, ELR STAT. NEPA §§2-209 codified as amended at 42 U.S.C. §§4321-4370h.
- U.S. Department of the Interior, Bureau of Reclamation. NEPA Handbook. February 2002.
- US. Department of the Interior, Bureau of Reclamation. Agreement Between New Magma Irrigation and Drainage District and the Tohono O’odham Nation Providing for the Delivery of the Nation’s CAP Water for Water Storage at a Ground Water Savings Facility. January 2014.
- Chrono 1500  
CEC’s  
WBR:KMusser:GG::01/23/2015:Ext.6216  
(N:\Correspondence\_GG\KMusser\New Magma TohonoOodham\_Exchange\_Final.docx)  
CV407