
CHAPTER 5

5 CONSULTATION AND COORDINATION

This chapter summarizes Reclamation's consultation and coordination efforts with various state, federal, and local agencies in preparing for and compiling this FEIS. Public involvement has included project scoping; coordination with tribal, federal, and state agencies; coordination with the District; and public review and comment on the DEIS following publication in the *Federal Register*. The District participated in the consultation and coordination activities in recognition of its position as the recipient of the title transfer, its role as the operating agency for Division facilities, and its detailed knowledge of the resources of the project area.

5.1 PROJECT SCOPING

Reclamation filed a Notice of Intent (NOI) to prepare an EIS in the *Federal Register* on July 31, 2001. The NOI described the project and the NEPA process, announced public scoping meetings, and invited public comment on the scope and content of the environmental review (Appendix H). Letters were sent to federal, state, and local agencies, tribes, organizations, and individuals announcing the scoping meetings. Public scoping meetings were held on August 15, 2001 at the Antelope Union High School in Wellton, Arizona, and on August 16, 2001 at the Reclamation Yuma Area Office in Yuma, Arizona.

Four comment letters were received during the scoping process (Appendix B). The issues raised in comments included various aspects of water supply and return flows in the Yuma-Transboundary area of the Colorado River system, including concerns for the habitat in the Colorado River delta area of Mexico. The issues raised are summarized in Table 1-2 in Chapter 1.

5.2 FEDERAL AGENCY COORDINATION

5.2.1 U.S. Fish and Wildlife Service

Under Section 7(a)(2) of the ESA, 16 USC. § 1536(a)(2), each federal agency must, in consultation with the Secretary of the Interior, ensure that any discretionary action authorized, funded, or carried out by the agency "is not likely to jeopardize the continued existence of any [listed] species or result in the destruction or adverse modification" of designated critical habitat. To assist agencies in complying with the requirements of Section 7(a)(2), the statute and implementing regulations set out a detailed consultation process for determining the biological impacts of a proposed discretionary activity. The consultation is described in regulations promulgated at 50 CFR § 402. The Proposed Action/Preferred Alternative is a discretionary federal action by Reclamation and is therefore subject to compliance with the ESA.

1 By letter to the FWS on February 22, 2002, Reclamation requested a list of special status
2 species (i.e., endangered, threatened, and candidate species) in the project area to help focus
3 the biological resources assessment. The FWS responded by letter on March 7, 2002, to
4 Reclamation providing a list of endangered species that may potentially occur in the project
5 area, and commenting on the need to protect riparian habitat. Copies of these letters are
6 included in Appendix F. Reclamation also arranged two meetings with the FWS as part of
7 this coordination. The first of these was a meeting in the FWS Phoenix office on February
8 11, 2002 to discuss need and procedures for a field assessment of habitat that may be used
9 for special-status species. The second was a joint field inspection on March 5, 2002, of the
10 Gila River corridor and other lands involved in the Proposed Action/Preferred Alternative to
11 familiarize participants with the types of habitat involved and to assess the likelihood of
12 important habitat for special-status species.

13 Following the consultation activities cited above, the FWS concluded that an informal
14 consultation on endangered species would be appropriate for the Proposed Action. By letter
15 of March 10, 2003, Reclamation advised the FWS of the results of the Biological Resources
16 Assessment prepared for the proposed action and requested concurrence on the conclusions
17 with regard to special-status species, as discussed in Section 3.6. Reclamation received
18 concurrence from FWS in June 2003 that the Proposed Action/Preferred Alternative may
19 affect, but is not likely to adversely affect two listed species: the Yuma clapper rail and the
20 southwestern willow flycatcher (Appendix F). In August 2006, the most current species list
21 was reviewed. No new species were identified in the ROI for title transfer lands (U.S.
22 Bureau of Reclamation 2006). The FWS (2006c) indicated reinitiation of consultation did
23 not appear necessary. Reclamation stands ready to explore opportunities for enhancement of
24 species recovery with the FWS, AGFD, and other agencies or organizations as appropriate,
25 while protecting routine operation and maintenance activities.

26 **5.2.2 Bureau of Land Management**

27 BLM land management programs are related to the Proposed Action/Preferred Alternative in
28 that 1) the District boundaries border BLM lands at various points; 2) certain tracts of BLM
29 land lying within the District boundaries contain segments of the Gila River Flood Channel
30 on ROWs granted by BLM; and 3) the District has requested concurrence from BLM for a
31 boundary extension to include the upstream end of the Gila River Flood Channel within the
32 District boundary. Representatives of the BLM Yuma Field Office have participated in
33 periodic coordinating meetings between Reclamation and the District since early 2001.
34 Through discussions at these meetings, various BLM interests and potential points of BLM
35 involvement in the Proposed Action/Preferred Alternative were addressed and mutual
36 concerns resolved. BLM also participated in a field inspection of habitat types on affected
37 lands.

1 Further, since the publication of the DEIS for public review, coordination with the BLM has
2 continued. Approximately 8,644 acres of the 57,418 acres originally considered for transfer
3 in the DEIS have been further evaluated as to their federal status. These lands were found to
4 be either private or under the management of the BLM and as such, were removed from the
5 title transfer. These lands will remain under BLM management or in private ownership.²

6 **5.2.3 National Historic Preservation Act Compliance**

7 Section 106 of the NHPA of 1966, as amended, requires federal agencies to take into
8 account the effects of their actions on historic properties and to afford the Advisory Council
9 on Historic Preservation (Council) a reasonable opportunity to comment when an action will
10 have an adverse effect on historic properties. The Council's recommended approach for
11 consultation of the Protection of Historic Properties is found at 36 CFR 800, as amended.

12 The first step of the Section 106 process, as set forth at 36 CFR 800.3(a), is for the agency
13 official to "determine whether the proposed federal action is an undertaking as defined in 36
14 CFR 800.16(y) and, if so, whether it is a type of activity that has the potential to cause
15 effects to historic properties." Reclamation determined that the Proposed Action/Preferred
16 Alternative meets the definition of an undertaking, and that the undertaking has the potential
17 to affect cultural resources because certain lands will be released from federal ownership. As
18 described below, Reclamation has consulted with the Arizona SHPO, and tribal entities
19 regarding the assessment, protection, and treatment of cultural resources in the project area.
20 Reclamation and the SHPO concur that there will be an adverse effect to historic properties
21 as a result of the title transfer. As such, Reclamation notified the Council of the finding
22 pursuant to 36 CFR 800.6(a)(1) and invited the Council to participate in the resolution of
23 adverse effects. After initially declining to participate, the Council later notified the
24 Secretary of the Interior and Reclamation of its intent to participate in accordance with 36
25 CFR 800.6(a)(1) of the Council's regulations. The consulting parties have been notified of
26 the Council's participation. Reclamation and the consulting parties are attempting to resolve
27 the adverse effects of the title transfer on historic properties and are negotiating the terms of
28 a MOA pursuant to 36 CFR 800.6(c).

² An additional 2,186 [2,124 plus 62 acres in October 2005] acres of culturally sensitive lands were removed from the title transfer and remain under Reclamation management. Ultimately, the ownership of these lands may be transferred to the BLM, maintaining federal oversight. Further, on a detailed review of title reports, 1,037 acres of flowage easements and county ROWs were added or returned to the title transfer.

1 **5.2.4 Tribal Consultation**

2 The project area is important to several Native American tribes or communities as discussed
 3 in Section 3.7. Reclamation has regularly consulted with interested groups since 2002;
 4 meetings have been held on a monthly basis since 2004. More than 30 formal government-
 5 to-government and tribal information meeting have been held to explain the proposed title
 6 transfer and to provide an update on the status of the Section 106 process. Reclamation has
 7 requested tribal input regarding cultural resources or information on traditionally important
 8 places in the project area at meetings and during field visits. Several tribes have requested
 9 additional information or have commented on the land transfer, the perceived adequacy of
 10 the cultural resource inventories (identification process), and the consultation process. The
 11 consulting tribes and communities are listed in Table 5-1.

12 **TABLE 5-1 INDIAN TRIBES AND COMMUNITIES COORDINATION**

Indian Tribes and Communities Consulted
Ak-Chin Indian Community
Campo Band of Kumeyaay
Chemehuevi Indian Tribe
Cocopah Indian Tribe
Colorado River Indian Tribes
Fort McDowell Yavapai Nation
Fort Mohave Indian Tribe
Fort Yuma Quechan Tribe
Gila River Indian Community
Hia C'ed O'odham Alliance *
Hopi Tribe
Hualapai Tribe
Kaibab-Paiute Tribe
Navajo Nation
Pascua Yaqui Tribe
Salt River Pima-Maricopa Indian Community
San Carlos Apache Tribe
Tohono O'odham Indian Nation
Tonto Apache Tribe
Viejas Band of Kumeyaay
Yavapai-Apache Nation
Yavapai-Prescott Indian Tribe

13 * Hia C'ed is not a federally recognized tribe, but is considered a subset of the Tohono
 14 O'odham Indian Nation.

1 The primary concerns relate to ancestral ties with the project area. Many groups fear that
2 their cultural heritage and the cultural remains of their ancestors will be adversely affected
3 by the transfer of land from federal ownership. Certain tribes have expressed an interest in
4 gaining administrative control over the acreage removed from the title transfer. Particular
5 points of concern were the preservation of archeological remains at Antelope Hill and the
6 avoidance of disturbances to cultural resources irrespective of NRHP eligibility status.
7 Reclamation and District-owned land on which Antelope Hill is located is not included in
8 the Proposed Action/ Preferred Alternative.

9 Tribal concerns were expressed over certain lands being proposed for title transfer based on
10 the absence of Class III inventory work. Approximately 4,833 acres of undisturbed lands
11 with low probability for cultural resources [per the Archaeological Sample Survey Design
12 report (SRI 2003)] were in question. Although not required under the approved Section 106
13 sampling methodology for the project, Reclamation agreed to survey these previously
14 undisturbed lands included in the title transfer. This work was conducted as a part of
15 Reclamation's ongoing responsibilities under Section 110 of the NHPA. Reclamation
16 completed a Class III inventory of these lands in December 2005. The findings of the
17 additional inventory confirmed the validity of the original survey methodology.

18 Also in response to tribal concerns, approximately 2,182 acres of sensitive lands were
19 removed from the title transfer in early 2005. Of the 90 prehistoric sites identified during the
20 cultural inventories (SRI 2005c, SRI 2006a), only 19 eligible sites remain in the title transfer
21 (14 of which have prehistoric components). The 65 sites removed from the transfer will be
22 managed as part of Reclamation's Section 110 responsibilities and will be subject to NEPA
23 review if affected by futures actions.

24 As discussed in Section 3.7, the treatment and/or ongoing management of the 14 cultural
25 resource sites with prehistoric components remaining in the title transfer will be addressed in
26 the MOA currently under negotiation with the Arizona SHPO, the Advisory Council,
27 Reclamation, the District, and tribal entities.

28 Reclamation has continued their on-going government-to-government consultation by
29 meeting with interested tribes to provide information on the Proposed Action/ Preferred
30 Alternative and to obtain information on cultural resources of special importance to the
31 tribes and communities. Further, since July of 2004, monthly work group meetings have
32 been where Reclamation, the District, SHPO, and the tribes have discussed the on-going
33 status and direction of the title transfer.

34 The results of archaeological investigations, including, but not limited to, copies of reports
35 listed in Table 5-2, project information and status, and other information and
36 correspondence was mailed to the consulting parties (listed in Table 5-1) for review and

1 comment. The meetings conducted by Reclamation were announced by certified letters to
 2 tribes and communities that had expressed interest in the proposed title transfer.

3 **TABLE 5-2 SUMMARY OF ARCHAEOLOGICAL REPORTS**

Report Title	Description	Author	Date
<i>A Class I Cultural Resources Inventory to Facilities, Works, and Lands of the Gila Project, Wellton-Mohawk Division to the Wellton-Mohawk Irrigation and Drainage District, Yuma County Arizona</i>	A literature search and research summary of archaeological investigations in the Lower Gila River Valley	SRI	2002
<i>Archaeological Investigations for the Transfer of Title to Facilities, Works, and Lands of the Gila Project, Wellton-Mohawk Division to the Wellton-Mohawk Irrigation and Drainage District Yuma County Arizona</i>	An archaeological survey of the river terraces and land forms adjacent to the Lower Gila River	SRI	2005
<i>Inventory of Traditional Cultural Properties for the Wellton-Mohawk Title Transfer Project, Yuma County Arizona</i>	A study of traditional cultural places of religious and cultural significance to tribes	SRI	2004
<i>Addendum To: Archaeological Investigations for the Transfer of Title to Facilities, Works, and Lands of the Gila Project, Wellton-Mohawk Division to the Wellton-Mohawk Irrigation and Drainage District Yuma, County, Arizona. For: Inventory of Additional Wellton-Mohawk Title-Transfer Lands</i>	A Class III survey of the remaining undisturbed title transfer lands	SRI	2006

4 **TABLE 5-3 SUMMARY OF HISTORIC ARCHAEOLOGICAL REPORTS ***

Report Title	Description	Author	Date
Inventory and Documentation of the Irrigation System of the Wellton-Mohawk Division of the Gila Project	A study of historical sites associated with the Gila Project	SRI	2005
Historic American Engineering Record - HAER No. AZ-68	Documentation of NRHP eligible works and facilities associated with the Wellton-Mohawk Irrigation System	SRI	2006

5 * The reports listed in Table 5-2 address archaeological investigations with both historic and prehistoric
 6 components.

7 **5.3 STATE AGENCY COORDINATION**

8 **5.3.1 Arizona Game and Fish Department**

9 The AGFD is responsible for conserving the wildlife resources of the state and
 10 administering hunting and fishing regulations. Coordination with the AGFD was initiated on
 11 February 11, 2002 at the meeting in the Phoenix office of the FWS through attendance of a
 12 representative of the Yuma Field Office of the AGFD. Further coordination occurred with
 13 the AGFD participation in the March 5, 2002 field review of the project area habitat. On
 14 March 6, 2002, Reclamation sent a letter to AGFD requesting a current list of state-protected
 15 species in the project area. The AGFD responded by letter on March 21, 2002 enclosing the

1 requested list with explanatory documentation. Copies of these letters are included in
2 Appendix F.

3 **5.3.2 Arizona State Historic Preservation Office**

4 The Arizona SHPO, a division of Arizona State Parks Department, is responsible for the
5 identification, evaluation, and protection of the prehistoric and historic cultural resources of
6 Arizona in accordance with the NHPA. Reclamation has determined and SHPO has
7 concurred that the title transfer will have an adverse effect on 19 historic properties eligible
8 for inclusion to the NRHP. As per 36 CFR Part 800.5 (a)(2)(vii), the transfer or sale of
9 property out of federal ownership or control is an adverse effect without adequate and
10 legally enforceable restrictions or conditions to ensure long-term preservation of the
11 property's historic significance.

12 Reclamation and the District have submitted Historic American Engineering Record
13 (HAER) documentation to the NPS for review. The HAER record ensures the future
14 protection, maintenance and treatment of the historic irrigation system as an element of
15 "living history". Representatives of SHPO also participated in many of the tribal meetings
16 discussed in Section 5.2, and has been actively involved in the consultation process.

17 SHPO concurrence with Reclamation's determination of cultural resources eligible for
18 listing on the NRHP is included in Appendix F. Consultation is on-going between the
19 SHPO, Reclamation, the District, Council, tribes, and other consulting parties regarding the
20 MOA to address the treatment and future maintenance of cultural resource sites.

21 **5.4 NON-GOVERNMENTAL ORGANIZATION & GENERAL PUBLIC** 22 **COORDINATION**

23 Reclamation, acting on behalf of the Secretary, published a Notice of Availability of a DEIS
24 for the Transfer of Title to Facilities, Works, and Lands of the Gila Project, Wellton-
25 Mohawk Division to the Wellton-Mohawk Irrigation and Drainage District, Yuma County,
26 Arizona (Wellton-Mohawk Title Transfer) and a schedule of public hearings in the *Federal*
27 *Register* (Vol. 68, No. 171) on September 4, 2003. Approximately 170 copies of the DEIS
28 were distributed to interested federal, tribal, state, and local entities and members of the
29 general public for review, along with nearly 300 individual letters to persons notifying them
30 of the availability of the document. The DEIS was also posted on Reclamation's Yuma Area
31 Office website for public review.

32 Reclamation facilitated two public hearings to receive oral and written comments on the
33 DEIS. Public hearings were held at:

- 1 ▪ Antelope Union High School in Wellton, Arizona, on October 1, 2003, and
2 ▪ Ramada Inn Chilton and Conference Center in Yuma, Arizona, on October 2, 2003.

3 In addition to one oral comment made at these hearings, Reclamation received eight letters
4 with comments pertaining to the DEIS, including letters from Congressman Ed Pastor, El
5 Paso Natural Gas, Arizona Clean Fuels, Arizona SHPO, BLM, EPA, and a joint letter from
6 Defenders of Wildlife, Environmental Defense, National Wildlife Federation, Pacific
7 Institute, Sierra Club, Western Resource Advocates, and Yuma Audubon Society.

8 Coordination with non-governmental organizations and the general public also includes the
9 scoping process described in Section 5.1. A project update newsletter was mailed in April
10 2005 to the project mailing list. Notification of the scoping process, availability of the DEIS,
11 and the newsletter were sent to numerous non-governmental agencies in the western United
12 States and to a mailing list of property owners in the District. In addition, public
13 announcements were made to various media outlets.

14 **5.5 WELLTON-MOHAWK IRRIGATION AND DRAINAGE DISTRICT** 15 **COOPERATION**

16 Reclamation and the District have been working together to define various details of the
17 implementation plan for the Proposed Action/Preferred Alternative. Reclamation and the
18 District entered into an MOA on July 10, 1998, as amended, to establish terms and
19 conditions for the proposed title transfer, including guidelines under which the Division
20 would be operated following the transfer. The MOA, contained in Appendix A, was cited in
21 Public Law 106-221 as the process under which the transfer was to be conducted, subject to
22 certain stipulations in the law. Under the terms of the MOA, Reclamation and the District
23 have formed an Oversight Committee to guide the transfer activities. The Oversight
24 Committee conducts periodic meetings to coordinate such activities as inventories of
25 facilities and lands to be transferred, land appraisals, environmental review, and
26 administrative provisions needed to implement the transfer. Such close coordination is a
27 practical necessity because of the amount and dispersal of facilities and lands involved, and
28 the District's operational responsibilities and experience.