



— BUREAU OF —
RECLAMATION

FINDING OF NO SIGNIFICANT IMPACT

Taos Pueblo Indian Water Rights Settlement Mutual-Benefit Projects Programmatic Environmental Assessment

Mission Statements

Department of the Interior

The Department of the Interior (DOI) conserves and manages the Nation's natural resources and cultural heritage for the benefit and enjoyment of the American people, provides scientific and other information about natural resources and natural hazards to address societal challenges and create opportunities for the American people, and honors the Nation's trust responsibilities or special commitments to American Indians, Alaska Natives, and affiliated island communities to help them prosper.

Bureau of Reclamation

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.

**U.S. Department of the Interior
Bureau of Reclamation
Albuquerque Area Office
Albuquerque, New Mexico**

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**Taos Pueblo Indian Water Rights Settlement
Mutual-Benefit Projects
Programmatic Environmental Assessment**

Manager, Environment and Lands Division

Date

Area Manager, Albuquerque, New Mexico

Date

FONSI Number: AAO-20-008

Acronyms and Abbreviations

	Full Phrase
afy	acre-feet per year
ASR	aquifer storage and recovery
DOI	Department of the Interior
EA	environmental assessment
EPA	Environmental Protection Agency
EPWSD	El Prado Water and Sanitation District
FONSI	finding of no significant impact
IPaC	Information for Planning and Consultation
ITA	Indian Trust Asset
MDWCA	Mutual Domestic Water Consumers' Association
NEPA	National Environmental Policy Act of 1969
NMOSE	New Mexico Office of the State Engineer
NRHP	National Register of Historic Places
Partial Final Judgement and Decree	Partial Final Judgement and Decree, February 11, 2016, entered by the U.S. District Court in State of New Mexico ex rel. State Engineer v. Abeyta and Arellano, Nos. 69cv07896 BB and 69cv07939 BB (D.N.M., filed February 4, 1969)
Reclamation	Bureau of Reclamation
ROW	right-of-way
Settlement Act	Claims Resolution Act of 2010 (Title V - Taos Pueblo Indian Water Rights - of Public Law 111-291, December 8, 2010)
Settlement Agreement	Abeyta Water Rights Adjudication: Settlement Agreement among the United States of America, Taos Pueblo, State of New Mexico, Taos Valley Acequia Association and its 55 member acequias, the Town of Taos, El Prado Water and Sanitation District (EPWSD), the 12 Taos Area Mutual Domestic Water Consumer's Associations, dated December 12, 2012

Summary of the Proposed Action

The United States (U.S.) Department of the Interior (DOI), Bureau of Reclamation (Reclamation), Albuquerque Area Office is proposing funding the mutual-benefit projects authorized under the Taos Pueblo Indian Water Rights Settlement Agreement (Settlement Agreement).

The Settlement Agreement and the Partial Final Judgment and Decree entered by the U.S. District Court in *State of New Mexico ex rel. State Engineer v. Abeyta and Arellano*, Nos. 69cv07896 BB and 69cv07939 BB (D.N.M., filed February 4, 1969) resolved Taos Pueblo's water rights claims in the Taos Valley. The U.S. Congress approved, ratified, and confirmed the Settlement Agreement through the Claims Resolution Act of 2010 (Title V of Public Law 111-291, Dec. 8, 2010) (Settlement Act). The U.S. District Court approved the Settlement Agreement through the Partial Final Judgment and Decree on February 11, 2016. The DOI published a notice in the Federal Register on October 7, 2016 (81 Federal Register 69844–69845, October 7, 2016) that the Settlement Agreement had become enforceable. The parties to the Settlement Agreement with the Taos Pueblo were the Taos Valley Acequia Association and 54 member acequias, the Town of Taos, the El Prado Water and Sanitation District (EPWSD), the 12 Taos Area Mutual Domestic Water Consumers' Associations (MDWCA), the State of New Mexico, and the United States. The primary purposes of the Settlement Agreement are as follows:

- Avoid the cost and uncertainty of litigation.
- Provide finality with respect to the quantification of Taos Pueblo's water rights.
- Provide an opportunity for non-Pueblo irrigators in the Taos Valley to preserve their acequias and for other non-Pueblo water rights owners to protect, develop, and maintain their water uses, while establishing a means by which the Pueblo may put its decreed right to beneficial use.
- Restore, preserve, and protect the Taos Pueblo Buffalo Pasture.
- Foster cooperation among all Taos Valley residents regarding the allocation and use of water supplies.

Section 507 of the Settlement Act authorizes and directs Reclamation to provide financial assistance in the form of grants on a non-reimbursable basis to eligible Settlement Agreement parties to plan, permit, design, engineer, and construct the mutual-benefit projects, in accordance with the Settlement Agreement. Congress provided that the “execution of the Settlement Agreement shall not constitute a major Federal action” under the National Environmental Policy Act (NEPA) (Settlement Act, Section 509(e)(1)), and that NEPA is only required “in carrying out” responsibilities under the Settlement Act (Section 509(e)(2)). Accordingly, Reclamation is performing the NEPA analysis based on the grant applications that eligible Settlement Agreement parties submit to Reclamation for federal funding. The parties to the Settlement Agreement agreed to plan, design, and construct projects, as described in Articles 6 and 7 of the Settlement Agreement. The proposed mutual-benefit projects involve groundwater wells, water storage, and a stream gage, and are summarized as follows:

- **Stream Gage** (See Settlement Agreement, Article 6.1.4)

A stream gage would be installed on the Rio Lucero to measure flows at the diversion of the Acequia Madre del Prado. The exact location for installation of the gage and type of gage in the vicinity of the diversion have not yet been determined.
- **Mitigation Wells** (See Settlement Agreement, Article 7.3.3.1.5)

The new mitigation wells authorized in Article 7 of the Settlement Agreement would be operated to offset certain tributary depletions resulting from future groundwater pumping by Settlement Agreement parties (Settlement Agreement, Articles 7.3.3.1.1, 7.3.3.1.5 and 7.3.3.1.10) by extracting groundwater from a deep aquifer (model layer 5 or below from the NMOSE Taos Area Calibrated Groundwater Flow Model; NMOSE 2006, 2012) connected to the Rio Grande. The mitigation wells will provide water during the irrigation season to maintain Acequias' surface water supplies that would otherwise be depleted by groundwater development (Settlement Agreement, Article 7.3.3.1.13). The mitigation well system would discharge certain amounts of water into surface tributaries to the Rio Grande (identified in Settlement Agreement Article 7.3.3.1.9), which are fed by springs and runoff from the Sangre de Cristo Mountains. The settlement parties agreed to an initial allocation of capacity for the mitigation wells and then agreed to terms for use of supplemental or additional capacity if it exists (see Settlement Agreement Articles 7.3.3.1.10 and 7.3.3.1.11). The initial allocation capacity of the system of mitigation wells is intended to offset the surface water depletion effects resulting from future groundwater diversions by the Town of Taos, EPWSD, the Pueblo, and MDWCAs totaling up to 3,520 acre-feet per year (afy) (see Settlement Agreement, Articles 7.3.3.1.10.1, 7.3.3.1.10.2, 7.3.3.1.10.3, and 7.3.3.1.10.4). The types of facilities that may be constructed for these new mitigation wells include well pads for pumps and buildings, water pipelines, electrical lines, access roads, and to a lesser extent water storage and water treatment facilities.
- **Water Supply Wells** (See Settlement Agreement, Articles 6.2.5, 6.3.1.4, and 6.3.1.5)

EPWSD and the Town of Taos would apply for permits from the New Mexico Office of the State Engineer (NMOSE) and drill new water supply wells into a deep aquifer and/or away from heavily populated areas, under Article 6 of the Settlement Agreement, to provide groundwater production capacity necessary to satisfy the purposes outlined in Articles 6.2.4.2, 6.2.5, 6.3.1.4, and 6.3.1.5 of the Settlement Agreement. The wells would be connected to the existing municipal water distribution systems for EPWSD and the Town of Taos. This extraction and pumping could occur year-round. The types of facilities that may be constructed for these new water supply wells include well pads for pumps and buildings, water pipelines, electrical lines, access roads, and water storage and water treatment facilities.
- **EPWSD Midway Wells Water Pipeline, Electrical Line, and Access Road** (See Settlement Agreement, Article 6.3.1.5)

EPWSD has prepared plans for water pipelines and electrical lines to service two existing wells known as Midway Wells #5 and #6 in order to deliver water from the deeper aquifer to the EPWSD system. The proposed lines would be placed within the same trench, which is

within a previously disturbed right-of-way (ROW) along U.S. Highway 64, and any needed new or improved access roads would follow the same alignment. New trenching would occur within the short distance between the highway ROW fence and the well location. Additional buildings would be constructed within the existing well pads for use in possible well head containment and chlorination.

- **Arroyo Seco Arriba Project** (See Settlement Agreement, Article 6.1.1)

The Arroyo Seco Arriba project allows for water storage in the form of either aquifer storage and recovery (ASR) wells or one or more surface storage reservoirs (a small pond for irrigation purposes). Surface flows from the Rio Lucero would be diverted during times of higher flows and stored for use during the irrigation season. The Settlement Agreement does not identify the location or design of one or more surface storage reservoirs, and no reservoir site has been proposed. ASR wells would be approximately 1,000 feet deep for extraction between May 1 and November 1 of each year. Water diverted from the Rio Lucero would be conveyed to the vicinity of the ASR project via a pipeline through the Taos Pueblo Tenorio Tract. After recovery from the ASR well, the water would be delivered to the Arroyo Seco near the point where the Acequia Madre del Rio Lucero y del Arroyo Seco crosses the Arroyo Seco. The types of facilities that may be constructed for the ASR wells include water pipelines, well heads, pumps, electrical lines, access roads, water storage facilities, storage buildings, and treatment facilities.

Environmental Impacts

Reclamation provided a broad, general analysis of the proposed mutual-benefit projects as a whole in the programmatic Environmental Assessment (EA) to support and streamline any future, site-specific, NEPA compliance analyses for individual projects, as needed. In the future, as the eligible Settlement Agreement parties bring forward their specific projects in grant applications for federal funding, Reclamation will review the application and project description and will determine what additional NEPA analysis and documentation would be required. See Settlement Agreement, Article 10.5 and Settlement Act, Sections 507(a) and 509(c)(2) and 509(e). NEPA analysis could include the preparation of a categorical exclusion, environmental assessment, or environmental impact statement. This programmatic EA provides site-specific analysis of the EPWSD Midway Wells #5 and #6 and proposed production infrastructure.

The following resources and socio-economic factors were analyzed to determine the potential impacts that would result from the implementation of the mutual-benefit projects: Water Resources; Air Quality and Noise; Vegetation and Soils; Wetlands and Floodplains; Fish, Wildlife, and Special Status Species; Cultural and Historic Resources; Indian Trust Assets; Socioeconomics; Environmental Justice; Transportation, Access, and Safety; and Agriculture and Other Land Use. These resources are further discussed below.

Water Resources

The effects of the Proposed Action on water supply would be beneficial, while adverse effects on water quality would be minor and temporary in nature.

Constructing the stream gage would have no effect on water supply other than improving the ability to monitor and manage flows. Depending on the type of stream gage to be installed, constructing the stream gage could temporarily increase turbidity for approximately half a mile in the Rio Lucero, which would subside within one day. Once installed, operation of the gage would have no impact on water quality.

Mitigation wells could cause effects on water supply through depletion of the deep aquifer, resulting in the need to use water rights to offset depletions of the Rio Grande. The NMOSE would assess whether there are any impacts on the Rio Grande and any required offsets, in accordance with the Settlement Agreement (see Articles 7.1 and 7.3.2), to ensure that there is no change to Rio Grande flows and to keep the river whole. Mitigation wells in the deep aquifer could encounter water with elevated concentrations of arsenic, calcium, magnesium, total dissolved solids, zinc, fluoride, or uranium. Some of these constituents could lead to geochemical reactions when mixed with other waters. This could cause such problems as precipitation of minerals. However, installation of the deep wells would involve water quality sampling and analysis before the wells are completed. If such elevated concentrations are encountered in specific wells, design and installation of treatment facilities would avoid adverse geochemical reactions and ensure compliance with the National Pollutant Discharge Elimination System discharge permits required for the mitigation wells before water is discharged to the tributaries. Operation of the mitigation wells would not result in temperature standard violations in the surface tributaries.

Water supply wells in the deep aquifer would reduce future additional drawdowns in the shallow aquifer, resulting in overall beneficial effects on water supply to all existing wells in the project area. The proposed water supply wells in the deep aquifer would be subject to the same water-quality considerations as those listed above for the mitigation wells; however, they would not discharge to streams and therefore would not need to meet stream water quality standards. Instead they would need to meet water quality standards for serving as source water for a public water supply.

Water resources would not be impacted by the construction and operation of the EPWSD Midway Wells water pipeline, electrical line, and access routes. Before production begins, the NMOSE will review and approve the amounts of water to be extracted, and water quality standards for drinking water will be met.

ASR wells or surface reservoirs proposed under the Arroyo Seco Arriba Project would benefit water supply. Any loss due to seepage of injected water away from the underground recovery zone would not result in impacts, as the operator may apply to the NMOSE for a permit to supply and recover 100 afy of depletion. ASR wells would be subject to the same water-quality considerations as those listed above for the mitigation and water supply wells, as certain parts of the deep aquifer could contain elevated concentrations of arsenic, calcium, magnesium, total dissolved solids, zinc, fluoride, or uranium. Mixing natural groundwater with the injected surface water could result in these constituents in the recovered water and requiring treatment. If one or more surface reservoirs were built instead of the ASR wells, there is a possibility that contaminants could enter the reservoir(s) via local surface runoff. If that were to happen, the water from the reservoir(s) could require treatment before it is used.

Air Quality and Noise

Disturbances in the immediate vicinity of the project site from construction activities associated with installation of the stream gage would create minimal noise and airborne particulate matter. Therefore, impacts on air quality, greenhouse gas emissions, and noise would be minor, short term, and localized.

There would be a short-term, adverse effect on air quality in the immediate vicinity of the projects as a result of fugitive dust and vehicle emissions from construction activities associated with mitigation wells and water supply wells. Best management practices (such as watering disturbed areas to reduce dust emissions) would be followed during construction, which in addition to the relatively small scale of the projects and short duration of the construction process, would result in negligible to minor localized fugitive dust emissions that would not alter the area's National Ambient Air Quality Standards attainment status. Effects from emissions of criteria pollutants and greenhouse gas emissions would be negligible. Noise would increase due to vehicles, heavy machinery, and equipment used during construction; however, noise would be short term and localized.

There would be short-term, adverse effects on air quality in the immediate vicinity of activities associated with the EPWSD Midway Wells water pipeline, electrical line, and access road as a result of fugitive dust and vehicle emissions from construction activities. The use of heavy machinery and equipment during construction of these project components would produce emissions, resulting in minor, localized impacts on air quality. Noise would primarily be from construction equipment and would be localized. Noise from pumping would be minor and minimized by buildings around the well head. Further, the project area is rural and no sensitive noise receptors would be affected.

Impacts on air quality and noise through construction, operation, and maintenance of the ASR wells or surface reservoirs proposed under the Arroyo Seco Arriba Project would be the same as described above.

Vegetation and Soils

Minimal impacts on vegetation or soils are anticipated from installing the stream gage. Such impacts would be localized to resources adjacent to the riverbank and ditch system, in the vicinity of an existing diversion structure.

Construction of mitigation wells and water supply wells would require vegetation removal and soil modifications. Vegetation removal could lead to introduction and competition from nonnative invasive or noxious weed species, resulting in direct impacts on vegetation, with long-term indirect impacts including altered native plant composition. Beneficial effects would occur for vegetation adjacent to Rio Lucero and other streams and tributaries, which could be improved to a minor extent from increased availability of water in the streams.

Construction associated with the EPWSD Midway Wells water pipeline, electrical line, and access road is anticipated to temporarily disturb approximately 9 acres, assuming a 5-foot construction buffer on either side of the route. However, because almost all of the trench would be in a previously disturbed highway ROW, there would be very little new permanent disturbance from installing the water pipeline and electrical line. Additional buildings would be constructed on the

existing well pads for Midway Wells #5 and #6; however, construction of these buildings is expected to disturb only an additional estimated 0.02 acres.

Construction of the ASR wells would directly affect vegetation and soils in the same way as described above for mitigation and water supply wells. In addition, inundation of vegetation and soils for one or more surface water storage reservoirs would remove vegetation and alter soil composition over time. Inundation would remove trees and associated understory local vegetation but could allow for new vegetation around the impoundments. More water would be made available in the streams identified in Article 7.3.3.1.9 of the Settlement Agreement and in the Rio Lucero during the growing season. Vegetation adjacent to these streams and tributaries could be improved to a minor extent.

Wetlands and Floodplains

Under the Proposed Action, construction-related surface disturbance could cause direct impacts on wetlands and floodplains, including removing or altering wetland vegetation, filling or draining areas to build project components, and creating excess sediment from vehicles and machinery; however, such impacts are anticipated to be minimal. The mutual-benefit project will meet requirements under the Clean Water Act (CWA).

During installation of the stream gage, there could be short-term localized impacts on riverine wetlands and floodplains; however, no impacts on wetlands or floodplains would occur during operation of the stream gage once installed.

Development of mitigation wells and water supply wells could affect wetlands and floodplains. Impacts would be minimized through avoidance and mitigation as required by additional environmental compliance and permitting requirements. Further, due to the high prevalence of floodplains in the overall Taos Valley, any disturbance from the mutual benefit projects would affect a negligible percentage of the total floodplains in the area.

Construction of the trench for the water pipelines and electrical lines that would service the two Midway wells could affect less than 0.1 acre of wetlands and up to 8 acres of floodplains along the existing highway ROW. Any activities in floodplains would be short term and occur during the construction period and the disturbed area will be reclaimed to existing conditions. No long-term impacts on wetlands or floodplains would occur during operations.

Construction of the ASR wells could also affect wetlands and floodplains, with impacts minimized as stated above. Development of surface storage could also impact wetland and floodplains and indirectly lead to the creation of wetland and riparian habitat along the shoreline, which would result in beneficial effects on wetlands. The final location of the reservoirs would be located to minimize impacts on wetlands and floodplains.

Fish, Wildlife, and Special Status Species

Impacts from temporary displacement of fish, wildlife, and special status species during installation and maintenance of the stream gage would be non-existent or short term. The Proposed Action would not have the potential for incidental take of any species under the Endangered Species Act

(ESA). There are no U.S. Fish and Wildlife Service-designated critical habitats in the area of analysis.

Impacts from surface disturbance on fish and other aquatic species would increase the closer the mitigation or water supply wells are to streams or rivers; however, implementing stormwater management practices would decrease impacts from soil entering streams or rivers. Water gathered from the mitigation or water supply wells would be tested and treated to meet applicable water quality standards. No impacts on fish, wildlife, and special status species are anticipated from using the water.

Impacts during trench construction would include short term displacement of local wildlife, but once the highway ROW has been restored to pre-construction conditions it would be accessible to the local wildlife. Construction activities associated with the EPWSD water line and electric line development would not have long-term impacts on fish, wildlife, or special status species.

Injection of available high runoff water into ASR wells or surface reservoirs proposed under the Arroyo Seco Arriba Project would not directly impact fish, wildlife, and special status species. Should the water be stored above ground in one or more surface storage reservoirs, impacts on fish, wildlife, and special status species could result in the indirect creation of habitat for some aquatic species, migratory birds, and wildlife species.

Cultural and Historic Resources

Impacts on cultural resources from installing and maintaining a stream gage would be minimal.

The surface locations for the mitigation wells and water supply wells would be assessed for the presence of cultural resources and historic properties before any ground-disturbing activities begin. Further compliance work under the National Historic Preservation Act (NHPA) would be completed, as needed, to address the mitigation wells and water supply wells at the project-specific level.

No impacts on sites eligible for the National Register of Historic Places are anticipated from construction activities associated with the EPWSD water line and electric line development. Results of the cultural resource surveys show that the historic artifact site in the EPWSD pipeline and electrical line route along U.S. Highway 64 ROW does not contain significant subsurface deposits or specific diagnostic elements that could add to the knowledge of the region's history. Additionally, it cannot be associated with any significant events, architectural styles, or persons to determine use and importance. Similarly, the portions of the historic irrigation ditches in the EPWSD pipeline and electrical line route along U.S. Highway 64 ROW do not contribute to the eligibility of the overall resources. Consultation with the State and Tribal Historic Preservation Officers would be completed before construction begins.

Impacts on cultural resources through constructing and maintaining the ASR wells would be the same as those described for the mitigation and water supply wells. If the projects include the reservoirs, land to be inundated would be covered by surveys, and further compliance under the NHPA and Tribal consultation will be completed before construction.

Indian Trust Assets

The Proposed Action is not expected to interfere with the quantity or quality of surface water or groundwater supplies available to the Taos Pueblo or to result in any adverse changes to water rights that support tribal fisheries, native plants, wildlife, irrigation, or trust income. Rather, the Proposed Action implements certain projects authorized in the Settlement Agreement, which, along with the Settlement Act and Partial Final Judgment and Decree, resolved Taos Pueblo's water rights claims in the Taos Valley.

Impacts on Taos Pueblo lands from disturbances associated with stream gage installation would be minimal and limited to the construction period.

While no mitigation wells or water supply wells would physically be placed on Taos Pueblo land, short-term impacts on Taos Pueblo lands could occur during construction activities associated with mitigation and water supply wells. Placing pipelines, electrical lines, and other features underground could temporarily reduce access to some Taos Pueblo land areas and could result in some surface disturbance. Once installed, there would be negligible impacts from operating and maintaining the pipelines and, electrical lines. If any associated pipelines, electrical lines, or other features would cross Taos Pueblo lands, it would require the Pueblo's permission and additional environmental compliance.

There would be no impacts on Taos Pueblo lands from the construction and operation of the proposed Midway wells water pipeline, electrical line, and access routes, as no Taos Pueblo lands would be used.

Additional environmental compliance would be required for the pipeline alignment across Taos Pueblo's Tenorio Tract to serve either the Arroyo Seco Arriba ASR wells or the reservoirs.

Socioeconomics

Under the Proposed Action, project activities would result in short-term increases in employment, primarily in the construction industry. Impacts would be limited to the construction period. Given the temporary nature of anticipated construction activities, it is unlikely that the Proposed Action would significantly increase new, permanent employment positions or associated economic impacts. Should construction result in demand for employment that exceeds that of the local workforce, there is a potential for short-term demand for temporary housing. Population and permanent housing characteristic changes are not likely to occur from project construction.

Environmental Justice

No disproportionate adverse impacts on low-income or minority populations would occur from the Proposed Action.

Transportation, Access, and Safety

Under the Proposed Action, impacts on transportation, access, and safety would generally be short term and limited to the construction phase of the projects. No long-term substantial change in transportation, access, and safety is anticipated from installing, operating, or maintaining the project

components. It is reasonable to assume that the Settlement Agreement parties would implement best practices during project construction to mitigate impacts on transportation, access, and safety.

Equipment necessary for construction of the mitigation or water supply wells and associated facilities would be transported along local roadways such as U.S. Highway 64 (Paseo Del Pueblo Norte), New Mexico State Highway 68 (Paseo Del Pueblo Sur), and New Mexico State Roads 518, 570, and 240. This could cause brief delays along the major public roadways near the area of analysis from construction vehicles leaving or entering the area; however, overall there would be minimal impacts on transportation associated with equipment hauling on- and off-site and construction personnel vehicles. Equipment and vehicles would be staged and parked at identified areas at the project site for each project during construction. Long-term, impacts on traffic would be minor and limited to periodic maintenance and some operation activities.

Trenching associated with the proposed Midway wells water pipeline, electrical line, and access routes would result in minor temporary impacts on transportation from associated traffic delays; however, over the long term, impacts on traffic would be minor and limited to periodic maintenance and some operation activities.

Agriculture and Other Land Use

A purpose of mitigation wells is to “provide water during the irrigation season to maintain Acequias’ surface water supplies,” thus enabling continued agricultural practices and preventing retirement of farmland that was projected to occur absent the mitigation wells. Settlement Agreement, Article 7.3.3.1.13. In certain areas, the Proposed Action would result in long-term impacts on land uses where project components are constructed, such as well pads and new roads. The overall change in acreage would be minor, and current land uses would generally be compatible around the facilities. Farmland of Statewide Importance and Prime Farmland if Irrigated may be affected by anticipated surface disturbance in the area of analysis; however, these impacts would generally be minimized by the final location of the projects and be short term and limited to the construction phase of the projects. There could also be some long-term impacts on agriculture and other land use under the Proposed Action from the permanent location of infrastructure facilities, and the landowner for any of the projects will be a willing seller/lessor.

Short-term impacts on agriculture and other land use would occur mostly during project construction for mitigation and water supply wells. Once project features are installed, there would be negligible impacts from ongoing operations and maintenance.

The possible placement of one or more surface storage reservoirs as part of the Arroyo Seco Arriba Project would affect land use by transforming the existing land use type of the reservoir area into a new land use type. Additionally, operating the ASR wells would increase the amount of water available for irrigation, which could support continued agricultural use in the area and could avoid the need to retire irrigated land.

Cumulative Impacts

A cumulative impact is the impact on the environment that results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless

of what agency (Federal or non-Federal) or person undertakes such other actions (40 Code of Federal Regulations, Part 1508.7).

The Proposed Action is for Reclamation to comply with its obligations under the Settlement Agreement, Partial Final Judgment and Decree, and Settlement Act to provide appropriated federal funding for certain settlement parties to plan, permit, design, engineer, and construct the mutual-benefit projects in accordance with the Settlement Agreement. The Settlement Agreement, Partial Final Judgment and Decree, and Settlement Act resolved the Taos Pueblo's water rights claims and objections thereto, and are final and binding, including in the project area. Congress provided that the "execution of the Settlement Agreement shall not constitute a major Federal action" under NEPA (Settlement Act, Section 509(e)(1)), and provided that NEPA is only required "in carrying out" responsibilities under the Settlement Act (Section 509(e)(2)). Reclamation is the only Federal agency that was tasked with disbursing Federal funding for these mutual-benefit projects (Settlement Act, Section 507). Although the Federal funding is a partial funding source, Reclamation has broadly analyzed the impacts of the mutual-benefit projects in the programmatic EA to the extent reasonably foreseeable under the boundaries of the Settlement Agreement. Further NEPA analysis will be done on the mutual-benefits projects, as appropriate, when project descriptions and/or designs are submitted to Reclamation. NMOSE will make decisions under their permitting process for testing and production wells, and the expectation is that the Rio Grande will not be affected by the mutual-benefit projects.

There are no reasonably foreseeable future actions in the project area; there are no identified proposals or approved NEPA documentation or plans with the potential to affect the same resources affected by the Proposed Action. As a result, the mutual-benefit projects would not have any cumulative effects in combination with other reasonably foreseeable future actions. When combined with the effects of other past cumulative actions, the effects of the Proposed Action would be largely beneficial and not contribute to any permanent negative cumulative impacts on any resource.

Future Environmental Compliance

The Proposed Action does not include any environmental commitments to minimize or mitigate potential adverse effects in addition to those included in this programmatic EA and FONSI; however, specific mutual-benefit projects may require future NEPA review and compliance with other applicable laws. As the eligible Settlement Agreement parties bring forward their specific projects for federal funding, Reclamation will review the application and project description and will determine what additional NEPA analysis and documentation would be required. This could include the preparation of a categorical exclusion, EA, or Environmental Impact Statement. Reclamation would tier from this programmatic EA and provide coverage under any additional NEPA compliance requirements and other laws. Examples of additional requirements include the following:

- Under NHPA, cultural resource surveys and consultation with Tribal governments, the State and Tribal Historic Preservation Officers, and the Advisory Council on Historic Preservation, as appropriate.
- Under ESA, surveys for listed or proposed threatened or endangered species and consultation with the U.S. Fish and Wildlife Service, as appropriate.

- Under CWA, jurisdictional wetland delineations and coordination with the U.S. Army Corps of Engineers for certifications and permits under Section 401/404, as appropriate.

Additionally, projects proposed by the Settlement Agreement parties would be required to comply with other State and local permit and access requirements, and by obtaining land and/or crossing permits or easements.

Conclusion

Based on the analysis presented in the EA, Reclamation finds that there would be no significant impacts associated with the Proposed Action. Reclamation makes this Finding of No Significant Impact pursuant to NEPA (42 U.S. Code 4321 et seq.) and the Council on Environmental Quality implementing regulations (40 Code of Federal Regulations 1500). Reclamation has determined that the Proposed Action does not constitute a major Federal action that would significantly affect the human environment. Therefore, no Environmental Impact Statement will be prepared.

References

- NMOSE (New Mexico Office of State Engineer). 2006. Attachment 3 to the Settlement Agreement. Part I: Documentation of OSE Taos Area Calibrated Groundwater Flow Model T17.0, by Peggy Barroll, PhD and Peter Burck, CGWP, NMOSE. January 11, 2006.
- _____. 2012. Attachment 3 to the Settlement Agreement. Part II: Development of the T17sup.M7 Superposition Version of the Taos Area Groundwater Model, and Water Rights Administration under the Taos (Abeyta) Settlement; by Peggy Barroll, PhD, NM OSE. April 16, 2012.
- Settlement Agreement. 2012. Abeyta Water Rights Adjudication. Settlement Agreement Among the United States of America, Taos Pueblo, the State of New Mexico, the Taos Valley Acequia Association and its 55 Member Acequias, the Town of Taos, El Prado Water and Sanitation District, and the 12 Taos Area Mutual Domestic Water Consumers' Associations. December 12, 2012.