

Chapter 6

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This chapter serves as the public involvement summary report of activities to date on the environmental compliance process pursuant to the National Environmental Policy Act (NEPA). It also includes information on consultation and coordination activities that have occurred to date.

1. Public Involvement

Public involvement is a process for including interested and affected individuals, organizations, agencies, and governmental entities in an agency's decisionmaking process. In preparing this environmental impact statement (EIS), formal and informal input was encouraged. Formal input was, and will be, solicited in four phases, as follows:

Scoping: Public scoping was conducted before the NEPA analysis began to obtain public input on issues and proposed alternatives. Results of the scoping process are summarized in this chapter.

Draft EIS Review: A 60-day public review and comment period on the draft EIS was initiated by the publication of the Notice of Availability (NOA) in the *Federal Register* on September 1, 2005. Public meetings were held in Roswell, Carlsbad, Fort Sumner, and Santa Rosa, New Mexico.

Final EIS Review: A 30-day final review period on this final EIS will be initiated by publication of the NOA in the *Federal Register*.

Record of Decision: After the 30-day review period on the final EIS, a Record of Decision (ROD) will be prepared and distributed.

1.1 Scoping

Scoping is a public process designed to inform the public about the project and to determine the scope of issues and alternatives to be addressed in the EIS. The scoping process for the Carlsbad Project Water Operations and Water Supply Conservation EIS began on October 4, 2002, with the publication of a notice of intent (NOI) in the *Federal Register*, which notified the public of the Bureau of Reclamation's (Reclamation) intent to re-operate Sumner Dam and implement a water acquisition program in the Pecos River basin.

To inform interested parties of the EIS, the location of scoping meetings, and the opportunity to comment, a newsletter, *River Notes*, was mailed to more than

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200 contacts on the distribution list on October 10, 2002. Newspaper advertisements were published, and a press release was issued to notify the public of the project, to announce the four public scoping meetings, to request public comments, and to provide contact information. A display advertisement was published on October 16, 2002, in the *Hobbs News-Sun*, *Current Argus*, and *Roswell Daily Record*. It was also published in the *DeBaca County News* and the *Santa Rosa Communicator* on October 17, 2002, and in the *Santa Rosa News* on October 18, 2002. The same text used in the display advertisement also was published as a legal notice in the October 16, 2002, edition of the *Albuquerque Journal*.

Public scoping meetings were held in Santa Rosa, Fort Sumner, Carlsbad, and Roswell, New Mexico, on October 21, October 22, October 23, and October 24, 2002, respectively. These meetings provided the public an opportunity to receive information, ask questions, and provide input about the project. Fact sheets about the project were distributed. A total of 94 members of the public attended the scoping meetings.

A total of 121 verbal comments were recorded during the four scoping meetings: 24 in Santa Rosa, 42 in Fort Sumner, 38 in Carlsbad, and 17 in Roswell. Six written submissions were received during the comment period. Comments were grouped into one of eight categories; the majority of the comments addressed the ecology of the Pecos bluntnose shiner (shiner) (figure 6.1). Comments generally focused on the following: the habitat and riverflow requirements of the shiner; impacts to property owners, particularly farmers and to industries dependent upon the river; concern over water rights; dam operations; the possibility of using watershed management and brush removal to improve conditions on the river; and obtaining accurate readings to determine current flow rates prior to altering them. Details on the scoping process and results are provided in the Scoping Report (Tetra Tech, Inc., 2003e).

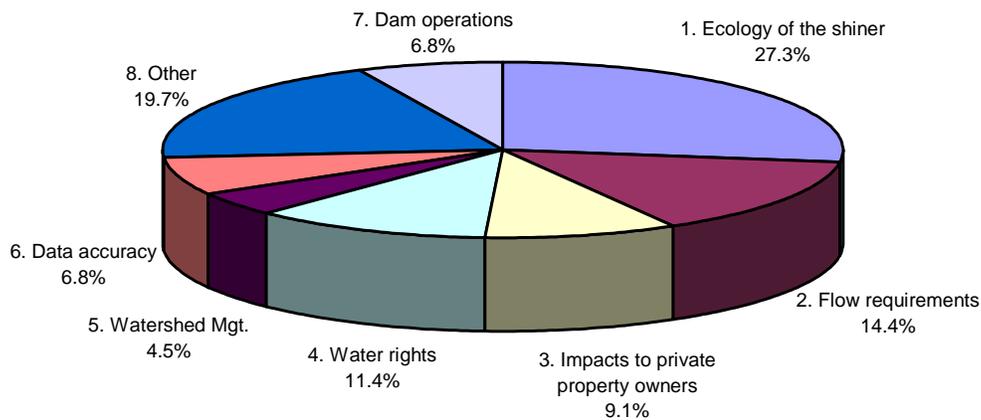


Figure 6.1 Comment categories.

1.2 Public Involvement Activities During Preparation of the Draft EIS

During the long period of preparation of the draft EIS, Reclamation and the New Mexico Interstate Stream Commission (NMISC) continued to update the public through newsletters, phone, e-mail, and informal meetings. Seven issues of the *River Notes* newsletter were produced and distributed. The mailing list grew to more than 450 recipients. Comments and questions solicited through the newsletters have become part of the project administrative record. Reclamation and NMISC met on several occasions with interested parties and stakeholders. An informal workshop, including a PowerPoint presentation, poster session, and sessions with resource specialists was held in Roswell on December 8, 2004, to inform the public, solicit input about the alternatives being addressed in the draft EIS, and to provide preliminary results from the impact analysis.

1.3 Draft EIS Review

The draft EIS was filed with the Environmental Protection Agency (EPA) on September 1, 2005, and a 60-day review period was announced in the *Federal Register*. The *River Notes* newsletter was sent to more than 450 interested members of the public, and hard copies and CDs of the draft EIS and its appendices were distributed to stakeholders, agencies, organizations. The document was posted on the project Web site, and printed copies of the draft EIS and appendices were made available for public review at the offices of Reclamation, NMISC, and the Carlsbad Irrigation District (CID) and at several libraries. Formal comments on the draft EIS were taken through October 31, 2005, via mail, e-mail, and fax.

During the third week of September, Reclamation and NMISC conducted public meetings to present and invite public comments on the draft EIS in Roswell, Carlsbad, Fort Sumner, and Santa Rosa, New Mexico. Each meeting began with an open house and an opportunity to view displays and talk to technical specialists about the issues presented in the draft EIS. After a short presentation, there was a general question-and-answer session and another opportunity for the public to provide comments and visit with technical specialists.

All comments were carefully reviewed and considered in preparing the final EIS. Where appropriate, revisions were made to the document in response to specific public comments and from input received from the U.S. Fish and Wildlife Service (Service) during the Section 7 consultation process (see Section 2.3, “Endangered Species Act, Section 7 Consultation”). Public comments, along with Reclamation’s responses, may be found in Attachment 1: “Comments on the Draft Environmental Impact Statement and Responses.”

1.4 Final EIS Review and Record of Decision

This final EIS and its appendices have been distributed to stakeholders, agencies, and organizations, and an NOA has been published in the *Federal Register*. It has also been made available on the project Web site, and a newsletter has been sent

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to those on the mailing list. A ROD, to be prepared no sooner than 30 days after publication of this final EIS, also will be published in the *Federal Register* and distributed and posted on the project Web site.

2. Agency Coordination and Consultation

2.1 Cooperating and Participating Agencies and Organizations

The following agencies and organizations served as cooperating and participating agencies in the preparation of this EIS. As such, they were invited to serve on the NEPA interdisciplinary team (ID team) and review committee. Representatives of these agencies also participated in technical workgroups, which assisted the ID team in supporting studies and other tasks:

- U.S. Fish and Wildlife Service
- U.S. Army Corps of Engineers
- New Mexico Department of Game and Fish
- Carlsbad Irrigation District
- Pecos Valley Water Users Association
- Fort Sumner Irrigation District
- Pecos Valley Artesian Conservancy District
- Chaves County Flood Control District
- Guadalupe County
- Chaves County
- De Baca County
- Eddy County

2.1.1 Interdisciplinary Team

The EIS was prepared using an interdisciplinary approach, as required by NEPA. The ID team included representatives of the technical workgroups, EIS authors, and the cooperating and participating agencies. Videoconference meetings were conducted throughout the EIS process, and call-in numbers were provided for remote access. The ID team was responsible for the following:

- Developing and evaluating alternatives
- Coordinating technical workgroups
- Ensuring information exchange among technical workgroups
- Providing information to support the public involvement program
- Drafting and assembling the EIS
- Reviewing and responding to comments on the EIS

Leadership for the ID team was provided by the management team, which consisted of representatives of the joint lead agencies. The management team was responsible for the day-to-day management of the EIS process, schedule, budget, documentation, public involvement activities, and consultations. The

management team was under the under the direction of the executive committee, consisting of the Manager of Reclamation's Albuquerque Area Office and NMISC's Interstate Stream Engineer.

2.1.2 Review Committee

The review committee was formed to provide direct communication between the executive committee and representatives of cooperating and participating agencies. The review committee had no decisionmaking role. The purpose of the review committee was to facilitate coordination and information exchange and to review important EIS documentation before public release. Meetings were held periodically, and members were formally notified of the time and location.

2.1.3 Technical Workgroups

Technical workgroups provided technical and task support to the ID team. They performed studies and evaluations for a variety of disciplines and topics. Each workgroup was self-directed and had a designated leader(s). Leaders were responsible for coordinating workgroup activities and communicating with the ID team and management team. Workgroup members included technical staff and representatives of the joint lead agencies, cooperating and participating agencies, and key citizen stakeholders with interest in the discipline or focus of the group. Use of the workgroups allowed both the pooling of technical resources and early collaborative input into the NEPA process. Workgroups also had a major role in writing and reviewing EIS sections.

An alternative development workgroup was formed to identify, compile and screen the EIS alternatives for the ID team and management team. A water offset options workgroup systematically developed and ranked options for acquiring additional water for the Carlsbad Project water supply and for the benefit of the shiner. The biology workgroup synthesized available information on the needs of the shiner and other species, screened alternatives, and provided input into the EIS analysis and development of the Biological Assessment. The hydrology workgroup provided modeling support and synthesis of modeling information essential to the impact analysis for many resources and wrote and reviewed water resource sections. An adaptive management guidelines workgroup drafted the adaptive management plan, which is proposed under the action alternatives.

2.2 Consultation

Reclamation and NMISC consulted with a number of other agencies. In many cases, the consultations were an extension of existing dialogs with the cooperating and participating agencies. Table 6.1 provides a general list of agencies that were consulted on a formal or informal basis, along with the regulatory driver for such consultation. Specific consultations are discussed following the table.

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Table 6.1 Preliminary list of organizations and consultations

Organization	Consultation
U.S. Fish and Wildlife Service	Endangered Species Act of 1973, as amended (ESA); Fish and Wildlife Coordination Act
State of New Mexico agencies (State Historic Preservation Office, New Mexico Department of Game and Fish, New Mexico Environment Department)	Section 106 of National Historic Preservation Act, NEPA, and Clean Water Act
Tribal governments	National Historic Preservation Act, Archeological Resources Protection Act, Native American Graves Protection and Repatriation Act, NEPA, American Indian Religious Freedom Act, and Executive Order 13007. Government-to-government consultation, tribal assets, cultural, and archaeological resources, environmental justice
Bureau of Indian Affairs	Informal, NEPA, tribal assets, cultural and archaeological resources, environmental justice
U.S. Army Corps of Engineers	Clean Water Act (wetlands protection); water management
County governments and agencies (Chaves County, Eddy County)	NEPA, socioeconomics, environmental justice
Water districts (Carlsbad Irrigation District, Fort Sumner Irrigation District, Pecos Valley Artesian Conservancy District)	Water management/acquisition, NEPA
U.S. Forest Service	Informal, NEPA
Bureau of Land Management	Informal, NEPA
National Park Service	Informal, NEPA
Natural Resource Conservation Service	Prime farmland soils
Private landowners	Water management/acquisition, NEPA, environmental justice

2.3 Endangered Species Act, Section 7 Consultation

Section 7 of the Endangered Species Act of 1973, as amended (ESA) prohibits Federal agencies from authorizing, funding, or carrying out activities that are likely to jeopardize the continued existence of a listed species or destroy or adversely modify its critical habitat. Because the purpose of this EIS is related to a listed species, and because there are potential impacts on the shiner, the interior least tern, and other listed species, Reclamation conducted formal consultation with the Service. Reclamation has obtained an Interim Biological Opinion (BO) and a long-term BO. The Interim BO governs water operations for the transition period prior to implementation of the long-term BO. The long-term BO will take effect on or about August 1, 2006 (or 30 days after the signing of the ROD) and will cover operations over the next 10 years. The long-term BO is provided in appendix 1. Input received during the consultation process has been incorporated into the final EIS. The specific Reasonable and Prudent Measures and other actions outlined in the BO that Reclamation will implement will be included in the ROD.

2.4 Tribal Coordination

Federal law requires Federal agencies to consider the effects of their undertakings on cultural resources. The National Historic Preservation Act of 1966 (NHPA, 36 Code of Federal Regulations [CFR] 800), as amended, is the basic Federal law governing preservation of cultural resources of national, regional, State, and local significance. Specifically, section 106 of NHPA requires each Federal agency to consider the effect of its actions on any district, site, building, structure, or object that is included in, or eligible for inclusion, in the *National Register of Historic Places*. Furthermore, an agency must give the Advisory Council on Historic Preservation an opportunity to comment on any undertakings that could affect historic properties.

NHPA and other Federal legislation require consultation with American Indian tribes and nations, and the protection of historic and archeological resources by the Federal Government. Among these laws are the Archeological Resources Protection Act, the Native American Graves Protection and Repatriation Act, NEPA, the American Indian Religious Freedom Act, and Executive Order 13007. In terms of consultations, regulations require that Federal agencies consult with State Historic Preservation Office and identify American Indian tribes and nations that “might attach religious and cultural significance to historic properties in the Area of Potential Effect” [36 CFR 800.3(4)(f)(2)].

As part of the tribal outreach process, Reclamation solicited government-to-government consultation with potentially affected tribal governments regarding cultural resources and Indian trust assets. Letters were sent to eight tribes and pueblos, along with copies to the Bureau of Indian Affairs and New Mexico Historic Preservation Division on November 21, 2002. The following tribes and pueblos were contacted: Pueblo of Jemez, Pueblo of Ysleta del Sur, Pueblo of Isleta, Kiowa, Mescalero Apache, Fort Sill Apache, Comanche, and Hopi. No tribal concerns were raised from this process.

Because of the programmatic nature of this EIS, a definite Area of Potential Effect (APE) cannot be delineated for cultural resources. As specific projects are defined that may affect cultural resources, such as development of a well field, further cultural resource survey and consultation would need to be conducted with the State Historic Preservation Office and tribal groups.