

PRO-FONSI-13-002

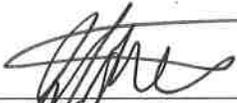
FINDING OF NO SIGNIFICANT IMPACT

Environmental Assessment

Blue Cut Water Service

**United States Department of the Interior
Bureau of Reclamation
Upper Colorado Region
Provo Area Office
Provo, Utah**

Recommended by:

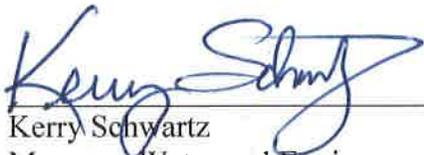


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8/30/13

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INTRODUCTION

The Blue Cut Water Service Environmental Assessment (EA) has been prepared to disclose and analyze the environmental consequences of the Bureau of Reclamation, Provo Area Office's proposal to lease 2,168 acre-feet of water from Cottonwood Creek Consolidated Irrigation Company (CCCIC), to be released into Cottonwood Creek at a year-round flow of 3 cfs at the Swasey Diversion Dam, in exchange for a one-time payment of \$6,500,000 from the Basin Fund.

PURPOSE AND NEED OF PROPOSED ACTION

Reclamation has proposed an exchange under which it would provide an augmentation to flows in Cottonwood Creek and the San Rafael River to the U.S. Fish and Wildlife Service (USFWS) in exchange for the USFWS's temporary and conditional forbearance of Water Right No. 93-2241, when usage of this right would be detrimental to Reclamation's Project water rights. Water Right No. 93-2241, allows for the annual diversion of 21 cfs (15,204 acre-feet annually) from Huntington Creek under an 1888 priority date. If this right were activated and used without the consultation and involvement of Reclamation, it could cause substantial harm to the Emery County Project's water users.

Cottonwood Creek is currently dry-dammed at the Swasey Diversion Dam for 7 months out of the year. During periods of no delivery, the San Rafael only receives return flows from Huntington Creek, Cottonwood Creek, and Ferron Creek. With the proposed action in place, there would be a constant flow of water in Cottonwood Creek year round and an ensured delivery of water to the San Rafael River. In the interest of being good environmental stewards, all participants in the exchange believe that additional water in Cottonwood Creek and the San Rafael River would contribute to healthier riparian and aquatic environments, thereby providing intrinsic benefits to the surrounding community.

PROPOSED ACTION

Under the Proposed Action, Reclamation would lease 2,168 acre-feet of water from CCCIC, to remain in Cottonwood Creek at a constant flow of 3 cfs, under a 40-year term (with the option to renew) in exchange for a one-time payment of \$6,500,000 from the Basin Fund. CCCIC's full diversion of 3 cfs at Swasey Diversion into Cottonwood Creek and the San Rafael River would be staged, based on the following schedule: 1 cfs from November 1, 2015 to October 31, 2017; 2 cfs from November 1, 2017 to October 31, 2018; and the full 3 cfs beginning November 1, 2018 until the termination of the contract. The releases would be verified approximately 6 miles downstream, just below the Mill Ditch Diversion Dam.

USFWS would temporarily forbear the use of Water Right No. 93-2241, when use of this right would be detrimental to Reclamation's Emery County Project rights, in exchange for the 2,168 acre-feet of water to be left in Cottonwood Creek from the Swasey Diversion to the head of the San Rafael River, and assistance from the EWCD to make certain that the USFWS receives its full allotment of Emery County Project water rights at Desert Lake. The exchange provides Reclamation an opportunity to reduce the associated risks of Water Right No. 93-224, while proactively assisting the USFWS in its charter to improve habitats for fish and other wildlife.

In order to determine the quantity of water that could be provided for Cottonwood Creek and San Rafael River flows under a lease from CCCIC, Reclamation enlisted the Department of the Interior's Office of Valuation Services (OVS) for assistance in appraising the value of a water supply on Cottonwood Creek. An appraisal was completed by an independent third party and verified by OVS. It was determined that \$6,500,000 could pay for the lease, operation, and maintenance (O&M) of 2,168 acre-feet, a sufficient quantity to guarantee additional flows of 3 cfs in Cottonwood Creek and the San Rafael River for the benefit of fish and wildlife in the area.

FINDING

Reclamation found that implementing the Proposed Action analyzed in the Blue Cut Water Service EA would not have a significant impact on the quality of the human environment and that an Environmental Impact Statement is not required. This decision was based on a thorough review of the EA and comments received on the EA. This decision is in accordance with the NEPA of 1969 (Public Law 91-90), as amended, and both the Council of Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR 1500-1508) and the Department of the Interior regulations implementing NEPA (43 CFR Part 46).

DECISION

Reclamation has decided to lease the 2,168 acre-feet of water from CCCIC, to be released into Cottonwood Creek at a constant flow of 3 cfs, in exchange for a one-time payment of \$6,500,000 from the Basin Fund.

REASONS FOR THE DECISION

The Finding of No Significant Impact (FONSI) and decision to authorize this revocation is based on the following:

1. Public health and safety was evaluated and no significant effects were identified.
2. The effects on the quality of the human environment are not likely to be highly controversial because there is no known scientific controversy over the impacts of the project.
3. No past, present, or reasonably foreseeable actions are expected to result in cumulative impacts (EA, Section 3.3.10).
4. The Proposed Action will have no significant adverse effect on sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places. (EA, Section 3.2). The Proposed Action will also not cause loss or destruction of significant scientific, cultural, or historical resources.

5. The Proposed Action will have “No Effect” on any endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973 (EA, Section 3.3.7 and Table 3.3.9).
6. The Proposed Action will not violate Federal, State, and local laws or requirements for the protection of the environment. Applicable laws and regulations were considered.
7. The Proposed Action would have no significant effect on such unique characteristics as wilderness areas and wetlands.

Reclamation has analyzed the environmental effects, public comments, and the Proposed Action in detail. Reclamation believes that the Proposed Action best meets the purpose and need described in the EA.

AGENCY AND PUBLIC COORDINATION

The USFWS requested to be a cooperator during a conference call that was held on May 7, 2013. Multiple meetings between USFWS, CCCIC, and Reclamation to discuss the project were held via conference call and face-to-face. On March 29, 2013, a site visit was performed with CCCIC and Reclamation to discuss the project and overlook the project area.

On, July 31, 2013, Reclamation sent the EA to USFWS for review and comment. One comment was received during the comment period, which ended on August 14, 2013. This comment was considered in updating the EA and preparing the FONSI.

A public review of the EA and FONSI was not considered necessary as the Proposed Action does not fit into any of the following criteria identified by the Council on Environmental Quality for making public review necessary: (a) if the proposal is a borderline case, i.e., when there is a reasonable argument for preparation of an EIS; (b) if it is an unusual case, a new kind of action, or a precedent setting case such as a first intrusion of even a minor development into a pristine area; (c) when there is either scientific or public controversy over the proposal; or (d) when it involves a proposal which is or is closely similar to one which normally requires preparation of an EIS (CEQ, “Forty Most Asked Questions Concerning CEQ’s National Environmental Policy Act Regulations” (March, 1981).

SUMMARY OF ENVIRONMENTAL CONSEQUENCES

The expected environmental impacts of the Proposed Action are described in Chapter 3 of the EA. The environmental analysis was focused on the resources mentioned in Chapter 3. The environmental analysis indicates under the Proposed Action, there would not be any adverse effects.