

## Chapter 5. Consultation and Coordination

Regulations implementing the National Environmental Policy Act require that lead agencies determine “the significant issues to be analyzed in depth in the environmental impact statement” and to “identify and eliminate from detailed study the issues that are not significant” (40 CFR 1501.7). An issue is a particular concern regarding the environmental effects of a proposed project. This process of identifying significant issues is called *scoping*. The overall purpose of scoping is to focus the environmental review on those issues that are relevant to the proposal and decision to be made. Chapter 2 discusses how issues were used to develop alternatives.

### 5.1 SCOPING

#### 5.1.1 Notices and Announcements

Reclamation published two notices in the *Federal Register* regarding the long-term miscellaneous purposes contract. In the first notice, published on February 28, 2003, Reclamation proposed to enter into a contract with the Carlsbad Irrigation District (CID) and the NMISC to convert irrigation water

appurtenant to up to 6,000 acres of land within the project for use by the NMISC for delivery to Texas to meet New Mexico’s Pecos River Compact obligation (68 Fed. Reg. 9715 (February 28, 2003)).

Reclamation published a second notice, a Notice of Intent (NOI), on January 20, 2004 (69 Fed. Reg. 2730 (January 20, 2004)) providing notice of Reclamation’s and NMISC’s intent to prepare an EIS for the project. The NOI also announced a public scoping meeting and described the procedures for public comment and obtaining additional information.

NMISC published an announcement for the public scoping meeting in five area newspapers: the Albuquerque Journal, the Carlsbad Current-Argus, the De Baca County News, the Roswell Daily Record, and the Santa Fe New Mexican. A newsletter that summarized the project, described the purpose and need, announced the upcoming scoping meeting, presented preliminary scoping issues, and solicited input was mailed to potential stakeholders and interested parties, including the general public, agencies, and organizations. The

newsletter contained a comment sheet that could be detached and either mailed or faxed to the NMISC.

### **5.1.2 Public Scoping Meeting**

The public scoping meeting was held on February 12, 2004, at the Best Western Stevens Inn in Carlsbad, New Mexico. Nine members of the public and local agency representatives attended. Handouts, including a map of the project area, were made. Following an initial open house, the NMISC provided a brief presentation of the project (proposed action, purpose and need, and preliminary alternatives), agency roles, an overview of NEPA and the scoping process, a discussion of preliminary issues, and the EIS schedule. Following the presentation, the NMISC informally solicited questions and encouraged discussion of issues and concerns from the attendees.

### **5.1.3 Major Issues Identified During Scoping**

Reclamation and the NMISC held a meeting with the public and interested agencies to identify the issues and concerns associated with this EIS project. Based on comments received during the public scoping meeting and from the agencies, seven major issues or concerns were identified. The issues were:

- Surface water flow and state line delivery
- Ground and surface water hydrology
- Management of fallowed land
- Wildlife
- Socioeconomic conditions
- Recreation resources
- Cultural resources

The scoping process is explained in more detail in a Scoping Report (ERO 2004). In accordance with

NEPA regulations, these issues, described below, are the focus of the EIS analysis.

#### **5.1.3.1 Surface Water Flow and State Line Delivery**

The Proposed Action is designed to increase surface water flow in the Pecos River at the state line and to implement part of a plan for long-term compliance with the Pecos River Compact and U.S. Supreme Court Amended Decree. Surface water flow in the Pecos River may change at locations other than at the state line, which may induce impacts to the channel below Avalon Dam. These changes may be a result of the Proposed Action or other reasonably foreseeable actions. In addition, the efficiency of the CID delivery system may change as a result of the Proposed Action and other reasonably foreseeable actions.

#### **5.1.3.2 Ground and Surface Water Hydrology**

The Pecos River and its tributaries as well as aquifers in the lower Pecos River basin support a variety of water uses. Springs originating in the RAB feed streams, surface water bodies, and the Pecos River. There is a concern that the water levels of Brantley or Avalon Reservoirs may change as a result of the Proposed Action. Some concerns have been expressed regarding potential impacts to spring flows resulting from reasonably foreseeable actions. These actions also may change the quality or quantity of both surface and ground water.

#### **5.1.3.3 Management of Fallowed Land**

The NMISC has acquired and continues to acquire lands in the CID, as well as upstream of Brantley Reservoir. NMISC fallows its purchased lands in order to increase flows in the Pecos River to maintain compliance with the Compact. A site-

specific land management plan is being developed for all of the properties acquired by the NMISC under the Settlement Agreement. The objective of the land management plans is to prevent soil erosion and weed infestation from occurring on NMISC-owned fallowed lands. Because NMISC land acquisition and subsequent fallowing are actions independent of the Proposed Action, they are discussed as a reasonably foreseeable action in Chapter 4.

#### **5.1.3.4 Wildlife**

The lower Pecos River basin provides suitable habitat for many species of wildlife. Changes in surface water flows below the Avalon Dam may affect habitat for fish and other aquatic life, or threatened and endangered species.

#### **5.1.3.5 Socioeconomic Conditions**

The project area is predominantly rural, with Roswell and Carlsbad as the major urban centers. Tourism and agriculture are important regional economic sectors. Area residents expressed concern that the Proposed Action may affect socioeconomic conditions of Eddy, Chaves, and De Baca counties, communities in these counties, downstream water users, and other communities within the Pecos River basin. Much of the concern about changes in socioeconomic conditions focused on NMISC's land acquisition and fallowing. NMISC land acquisition and fallowing is independent of the Proposed Action, and is discussed as a reasonably foreseeable action in Chapter 4.

#### **5.1.3.6 Recreation Resources**

Brantley Lake State Park is a popular recreation area for boating, fishing, camping and other recreation activities. Because Avalon Reservoir is shallower and has more fluctuating water levels, it

supports less recreation use than Brantley Reservoir. Other popular recreation activities include fishing and hunting in the Pecos River corridor. There is a concern that changes in the flow of the Pecos River and water levels at Brantley or Avalon Reservoirs may change recreational opportunities.

#### **5.1.3.7 Cultural Resources**

The project area contains both historic and prehistoric cultural resources sites. The CID is listed as a National Historic Landmark in the National Register of Historic Places, and various facilities, including reservoirs, canals and laterals, structures, and support buildings are contributing elements. There is a concern that changes to the current use of the contributing elements may affect the CID National Historic Landmark. Much of the concern about changes in cultural resources is focused on NMISC land acquisition and fallowing within the CID. The State's land acquisition and retirement program is considered a Reasonably Foreseeable Action and is addressed in Chapter 4.

#### **5.1.4 Draft EIS Public Meeting**

On February 8, 2006, a public meeting was held in Carlsbad, New Mexico, to solicit comments on the DEIS. No public or agency comments were submitted at the meeting. General discussion topics included the following:

- Concerns were raised about ongoing salt cedar control programs in the Cumulative Effects section of the EIS. Reclamation does not intend to include measurement of water salvage in this study. Other audience members expressed their concerns regarding bank stability issues related to salt cedar removal. This topic is outside of the scope of the long-term miscellaneous purposes contract EIS.
- People expressed concern over the total number of acres fallowed under the long-

term miscellaneous purposes contract in combination with the Pecos River Settlement Agreement. Currently, 3,416 acres in CID are fallowed annually on average under the leasing program and short-term miscellaneous purposes contract. A total of 6,000 acres in the CID will be purchased by the NMISC and fallowed under the Settlement Agreement. It is assumed that cumulatively, there will normally be no more than 6,000 acres fallowed; i.e., some lands currently fallowed may be purchased under the Settlement Agreement. Additional water may be leased under a contingent water contract in those years when Compact obligations cannot be met by the natural flows of the Pecos River combined with waters that NMISC owns in the CID.

- Concern was expressed over the loss of agricultural infrastructure, i.e., the cotton gin, under the Settlement Agreement.
- People expressed concern over the concept of efficiency losses and reduced frequency of water delivery within CID. Under the Proposed Action, a slight decrease in project efficiency—i.e., the amount of water lost to evaporation, canal losses, and other delivery-related losses—may occur. The current pattern or frequency of farm deliveries would not change. In addition, the NMISC has relinquished a portion of their delivery losses not incurred to account for the reduced efficiency as part of the Settlement Agreement.
- A suggestion was made that delivery of NMISC water could take place through the CID main canal, with water returned to the river south of CID. This option is precluded because the CID main canal does not have the capacity of the Pecos River channel, and delivery through the CID main canal would be much less efficient.
- Concerns were expressed over weeds on fallowed lands, and the possibility of the NMISC using water to establish a cover

crop. Members of the public expressed concern that NMISC's use of water for irrigation would violate the Settlement Agreement. Like the current situation, all fallowed lands would be managed by the landowner. The NMISC-purchased lands are evaluated on a farm-by-farm basis to determine the most effective management plan for each farm. The long-term miscellaneous purposes contract would not preclude the NMISC from using their water for irrigation purposes.

## **5.2 NATIVE AMERICAN TRIBE CONSULTATION**

On March 19, 2004, Reclamation sent a letter inviting tribes to government-to-government consultation in the NEPA process and sent notification of the proposed action to the BIA of tribal invitations. The Tribes and Pueblos invited to participate were the Jemez Pueblo, Ysleta del Sur Pueblo, Isleta Pueblo, Kiowa Nation, Mescalero Apache, Fort Sill Apache, Comanche Nation, and the Hopi. No comments were received from the Tribes or the BIA.

## **5.3 INTERAGENCY COORDINATION**

On February 6, 2004, the NMISC and Reclamation sent a scoping letter soliciting items of issue and concern to the following agencies and organizations: U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, New Mexico Department of Game and Fish, Carlsbad Irrigation District, Fort Sumner Irrigation District, Pecos Valley Artesian Conservancy District, Pecos Valley Water Users Organization, Chaves County Flood Control District, and Chaves, De Baca, Guadalupe, and Eddy Counties. No comments were received from these agencies and organizations.

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On August 26, 2004, the NMISC and Reclamation met with the New Mexico Department of Game and Fish to discuss the scope of the proposed action. A similar meeting was held with the U.S. Fish and Wildlife Service on August 27, 2004. At

each meeting, the agencies discussed the project purpose and need, alternatives, and potentially affected ecological resources. On December 2, 2005, the Final Biological Evaluation (BE) was sent to USFWS.