

# RECLAMATION

*Managing Water in the West*

## **Record of Decision for Long-Term Miscellaneous Purposes Contract Final Environmental Impact Statement**



U.S. Department of the Interior  
Bureau of Reclamation

August 2006

## Summary of Action and Background

This document constitutes the Record of Decision (ROD) of the Department of the Interior, Bureau of Reclamation (Reclamation), Upper Colorado Region, regarding a long-term miscellaneous purposes contract in the Lower Pecos River Basin, New Mexico. The contract is the subject of the *Long-term Miscellaneous Purposes Contract Final Environmental Impact Statement, Eddy County, New Mexico* (FEIS) filed with the Environmental Protection Agency (FES-06-19) on July 21, 2006. The FEIS and this ROD have been developed in compliance with the National Environmental Policy Act of 1969, as amended (NEPA), the Council on Environmental Quality's (CEQ) regulations for implementing NEPA (40 CFR 1500-1508), Department of the Interior and Reclamation policies. Reclamation and the New Mexico Interstate Stream Commission (NMISC) are joint lead agencies for the purpose of compliance with the NEPA.

The FEIS documents the analysis of the potential environmental consequences of a proposed long-term miscellaneous purposes contract and any related contracts in accordance with the requirements of the NEPA. Reclamation and the Carlsbad Irrigation District (CID) propose to enter into a long-term miscellaneous purposes contract to use Carlsbad Project water (Project water) for purposes other than irrigation. The purpose of Reclamation's proposed federal action is to allow the NMISC to use Project water for purposes other than irrigation, specifically for delivery to Texas to maintain long-term compliance with the Pecos River Compact and the United States Supreme Court Amended Decree in *Texas v. New Mexico*. The long-term miscellaneous purposes contract would replace a 1999 short-term contract that Reclamation currently has with the CID that allows the NMISC to use Project water for miscellaneous purposes.

The Secretary of the Interior authorized the Carlsbad Project for the purpose of irrigation in 1905. Reclamation diverts to storage and delivers Project water to CID. Reclamation also owns Sumner, Brantley, and Avalon Dams. The CID operates the dams and reservoirs under an operation and maintenance contract and a repayment contract with Reclamation for 25,055 acres of land authorized for irrigation.

In 1948, New Mexico and Texas entered into the Pecos River Compact. In 1974, Texas filed a lawsuit against New Mexico for under-delivery of water required by the Compact. In 1988, the Supreme Court entered an Amended Decree, which appointed a federal River Master and established an accounting method to verify proportioning of Pecos River flows between New Mexico and Texas. Under the Amended Decree, New Mexico cannot have a net shortfall in its water deliveries to Texas. However, New Mexico is permitted to accrue a positive state line credit which can be used for water delivery in years when there is a shortfall.

In New Mexico, the NMISC oversees interstate stream compacts and interstate stream litigation, and cooperates in the planning of federal water projects. The NMISC began leasing Project water in 1992 as part of its Water Resource Conservation Project to ensure continued compliance with the Pecos River Compact; the leasing has continued through the present. Reclamation and the CID entered into a one year term miscellaneous purposes

contract in 1998 and a five year contract in 1999, which was renewed in 2004 thru 2009, to allow the NMISC to use Project water for state line delivery. Under the existing short-term miscellaneous purposes contract, the NMISC is the only entity allowed to enter into lease agreements with the CID to use the water for purposes other than irrigation and such agreements are subject to Reclamation's review. The short-term miscellaneous purposes contract allows CID to release Project water directly into the Pecos River immediately downstream of Avalon Dam, the last dam on the river in New Mexico, for delivery to the state line. Since implementation of the leasing program in 1992, release of leased water from Avalon Dam has contributed significantly to New Mexico's efforts to comply with the Compact and Amended Decree. Without the leasing program, New Mexico may have defaulted on its Compact obligations as early as 1995.

In attempting to comply with the Compact without a long-term miscellaneous purposes contract, the New Mexico State Engineer is more likely to be forced to issue a priority call. In general, a priority call results in a curtailment of diversion of more recently established water rights (juniors) in an attempt to provide water to those with more senior water rights. A basin-wide priority call issued to avoid an imminent shortfall, or to correct a net shortfall in accordance with the Pecos River Master's approved plan, would curtail all water users regardless of the seniority of their water right. A basin-wide priority call would likely have substantial adverse economic effects in the Pecos River Basin. The long-term miscellaneous purposes contract would not preclude future use of the water for irrigation of lands within the CID.

## **Reclamation's Decision**

The decision is to proceed with the Preferred Alternative as identified in the FEIS. The Preferred Alternative is also the environmentally preferable alternative. The Preferred Alternative is Reclamation's execution of a long-term miscellaneous purposes contract with the CID, and review of any related separate third-party contracts between the CID and the NMISC. The long-term miscellaneous purposes contract would allow the NMISC to use Project water for purposes other than irrigation for a period of 40 years. The Preferred Alternative fully satisfies the project purpose and need and avoids major impacts to the environment. Effects of the Preferred Alternative have been determined not to require mitigation measures. The No Action Alternative has the potential for significant impacts on the environment or other resources.

## **Alternatives Considered in the Final EIS**

Alternatives were developed with public review and involvement. The FEIS analyzed one action alternative and the No Action Alternative.

### **1. No Action Alternative**

Under the No Action Alternative, Reclamation would not enter into a long-term miscellaneous purposes contract. The existing, short-term contract would remain in effect

until 2009. After the short-term contract expires in 2009, the NMISC would have no mechanism to ensure direct delivery of either owned or leased Project water to the state line.

**2. Proposed Action (Preferred Alternative and Environmentally Preferable Alternative)**

The Preferred Alternative is Reclamation’s execution of a long-term miscellaneous purposes contract with the CID and review of any related separate third-party contracts between the CID and the NMISC. All practicable means to avoid or minimize environmental harm were adopted in the alternative, as described in the FEIS. The long-term miscellaneous purposes contract with the CID and review of any related separate third-party contracts between the CID and the NMISC would be completed in 2006.

The CEQ defines the environmentally preferable alternative as the alternative that promotes the national environmental policy in NEPA section 101. This policy is “...to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.” Reclamation has identified the Preferred Alternative as the environmentally preferable alternative. The Preferred Alternative will minimize impacts to the natural and human environment as shown in Table 1. Resources not in the table would not be affected by either alternative.

Table 1. Comparison of alternatives after 2009 by resource

| Resource           | Preferred Alternative (signing of long-term misc. purposes contract)               | No Action Alternative (no federal contracts)                                    |
|--------------------|--|---|
| Hydrology          | Higher flows in Pecos River  | Lower flows in Pecos River  |
| Socioeconomics     | General improvement in local and regional economy; decreased risk of priority call | General decrease in local and regional economy; increased risk of priority call |
| Soils and Land Use | Potential increase in erosion and weeds on leased acres                            | Potential decrease in erosion on cropped acres                                  |
| Water Quality      | General improvement in water quality   | General degradation of water quality  |

**Basis of Decision and Issues Evaluated**

Significant issues analyzed in detail in the FEIS are listed in Table 1 and summarized below. The alternatives would have no significant impact on wetlands, vegetation, or recreation. The alternatives would have no impact on cultural resources, Indian trust assets, wildlife, or threatened and endangered species.

**1. Hydrology**

Three indicators were used to assess effects on surface water and ground water resources: Pecos River flows, Carlsbad Project delivery efficiency, and base inflows to the Pecos River. Flows in the Pecos River would be the same under the No Action Alternative and the Preferred Alternative until 2009, while the existing, short-term contract would be in effect. After 2009, flows of 600 cfs or greater in the Pecos River would occur about 18 days more in the Preferred Alternative than in the No Action Alternative. After 2009, the Preferred

Alternative would result in slightly lower CID Main Canal flows and decreased Project efficiency compared to the No Action Alternative. Because the Preferred Alternative would result in less land being irrigated in the CID than the No Action Alternative, the Preferred Alternative would have less Pecos River base inflows due to reduced return flows compared to the No Action Alternative after 2009. Neither alternative would significantly change geomorphology. Salinity was the water quality indicator assessed in detail in the FEIS. There would be a general increase in salinity under the No Action Alternative and a slight decrease in salinity under the Preferred Alternative.

## **2. Socioeconomics**

Socioeconomic indicators evaluated in the FEIS were crop production, regional economy, and social effects. Under the No Action Alternative, lands currently leased (about 3,416 acres) would return to agricultural production after 2009, generating about \$492,000 in increased agricultural revenue. Under the Preferred Alternative, the NMISC would continue to lease and fallow about 3,416 acres of irrigated land. Regional economic impacts under the No Action Alternative include a decrease in total value added (\$3.3 million) and a decrease in gross value (\$5.8 million). In addition, the No Action Alternative has a considerably higher risk of a basin-wide priority call, which could incur a single-year economic impact of \$59.6 million. Under the Preferred Alternative, regional economic conditions would remain similar to existing conditions. Significant adverse social effects would occur under the No Action Alternative in the event of a priority call.

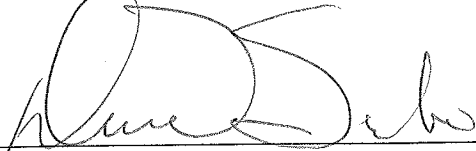
## **3. Soils and Land Use**

Under the No Action Alternative after 2009, more lands would be in agricultural production. Many areas within the CID are prime farmlands if irrigated; therefore, the No Action Alternative may result in an increase in prime farmland. In addition, lands under production would have decreased potential for water and wind erosion and noxious weeds invasions. Under the Preferred Alternative, there would be a greater potential for wind and water erosion and noxious weed invasions on fallowed lands.

## **Implementation**

Implementation of the preferred alternative will be Reclamation's execution of a long-term miscellaneous purposes contract with the CID and review of any related separate third-party contracts between the CID and the NMISC and will begin 30 days after signing of this ROD.

**Approved:**



\_\_\_\_\_  
Regional Director  
U.S. Bureau of Reclamation, Upper Colorado Region  
Salt Lake City, Utah

8/18/06  
Date